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BOARD MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET  
2ND FLOOR

CENTRAL VALLEY AUDITORIUM

SACRAMENTO, CALIFORNIA

TUESDAY, JULY 15, 2003

9:30 A.M.

TIFFANY C. KRAFT, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Steven R. Jones

Jose Medina

Linda Moulton-Patterson

Cheryl Peace

Michael Paparian

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Elliot Block, Staff Counsel

Bob Fujii

Jan Howard

Jim Lee, Deputy Director

Steve Levine, Staff Counsel

Phil Morales

Pat Schiavo, Deputy Director

Patty Wohl, Deputy Director

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APPEARANCES CONTINUED

ALSO PRESENT

King Bailey, Sukut Construction

Ernest Briggs

Karen Coca, City of Los Angeles

Joseph Crea, AEI CASC Engineering

Richard Idell, Universal Portfolio

Karen Gerbosi, Beebe Family Ranch

Gary Giacomini, Sears Point

Randy Pollack, K-Mart

Joe Pozzi, Gold Ridge Resource Conservation District

Don Silacci

Paul Sheffer, South Sonoma RCD

Leandra Swent, Southern Sonoma RCD

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1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: Good morning.

3 I'd like to call the meeting to order. I'd like to  
4 welcome you all to the July meeting of the California  
5 Integrated Waste Management Board.

6 Would the secretary please call the roll.

7 SECRETARY WADDELL: Jones?

8 BOARD MEMBER JONES: Here.

9 SECRETARY WADDELL: Medina?

10 BOARD MEMBER MEDINA: Here.

11 SECRETARY WADDELL: Paparian?

12 BOARD MEMBER PAPARIAN: Here.

13 SECRETARY WADDELL: Peace?

14 BOARD MEMBER PEACE: Here.

15 SECRETARY WADDELL: Washington?

16 BOARD MEMBER WASHINGTON: Here.

17 SECRETARY WADDELL: Moulton-Patterson?

18 CHAIRPERSON MOULTON-PATTERSON: Here.

19 I'd like to ask everyone in the audience to  
20 please turn off cell phones or pagers. And also we have  
21 copies of the agenda on the back table and speaker slips.  
22 If you wish to speak before the Board, please fill out a  
23 form and give it to Ms. Waddell, who's right over here.

24 And with that, ex partes.

25 Mr. Jones.



1 BOARD MEMBER JONES: Karen Coca this morning on  
2 some L.A. issues.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.  
4 Ms. Peace.

5 BOARD MEMBER PEACE: I'm up to date.

6 CHAIRPERSON MOULTON-PATTERSON: I'm up to date.  
7 Mr. Medina.

8 BOARD MEMBER MEDINA: Up to date.

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

10 BOARD MEMBER PAPARIAN: I'm up to date.

11 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

12 BOARD MEMBER WASHINGTON: I'm up to date.

13 CHAIRPERSON MOULTON-PATTERSON: Fine.

14 Reports, Mr. Jones.

15 BOARD MEMBER JONES: Thank you, Madam Chair.

16 Just a couple of quick ones. I think one of them probably  
17 Mr. Leary will talk about.

18 But the new tire manifest kicked off. There's  
19 been a few issued that have been raised dealing with  
20 certain segments of the industry that I have full  
21 confidence we'll be able to work through. But I think one  
22 of the important things that came out of this was there's  
23 an opportunity -- we're putting a lot of money into local  
24 enforcement as part of the mandated SB 876.

25 And there was evidence -- especially in San Diego

1 where the LEA, who is also going to be doing tire  
2 enforcement down there, Janet Knotts, was at all three of  
3 the meetings where people were learning about the manifest  
4 system. And our staff recognized that she knew everybody  
5 that was in that room, which meant she was already out  
6 doing her work with tire haulers and generators. So I  
7 think there's a real opportunity to build on here with our  
8 local folks to really understand what's going on locally.  
9 We're putting a lot of money into local enforcement on  
10 this issue, and they need to be participating and training  
11 and really understanding so they can be a resource.

12 The other two were -- I did attend the ADC  
13 workshop in Diamond Bar. I was pleasantly surprised that  
14 it was not a contentious meeting, and there was actually  
15 quiet a few folks that agreed with what was going on. You  
16 always have a few different point of views, but it was a  
17 good meeting. Part of our staff got hung up on airplanes.  
18 And the staff that was there did a great job until their  
19 reinforcements showed up.

20 On June 24th I made a presentation of one of the  
21 plagues to the City of San Jose at their City Council  
22 meeting and sort of talked to them about staying on top of  
23 their programs. And we'll see what happens. That's it.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
25 Mr. Jones.

1 Ms. Peace.

2 BOARD MEMBER PEACE: Well, as you know I canceled  
3 the July Education and Public Outreach Committee meeting.  
4 I had a family emergency that required my immediate  
5 attention. I do apologize for any inconvenience that  
6 might have caused our staff or stakeholders who planned to  
7 attend the meeting. I have continued the items on this  
8 month's agenda to the August meeting of the Education and  
9 Public Outreach Committee meeting. Thank you.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
11 Ms. Peace.

12 Mr. Medina.

13 BOARD MEMBER MEDINA: Thank you, Madam Chair.

14 I'd like to report for the month of July I had  
15 the pleasure of -- actually, on June the 26th, I had the  
16 pleasure of visiting Mitsubishi cement plant in the Lucerne  
17 Valley. The plant uses tires as alternative fuel and  
18 diverts millions of tires from landfills. The plant is  
19 operated under Teichert control and is continuously being  
20 regulated by the regional air district.

21 On June the 28th, a fire erupted at a tire site  
22 in Mexicali on a site called Mount Signal with  
23 approximately 200,000 waste tires catching on fire.  
24 CalePA sent a representative down to assess the damage and  
25 to see if any assistance was needed. Fortunately, no

1 assistance was needed from California, and the local  
2 authorities extinguished the fire. Those of you that went  
3 on the tour may recall this is in close proximity to a  
4 much larger tire site that holds millions of tires.

5           On June the 30th I participated in the waste tire  
6 manifest roll off. The event took place at the Good Year  
7 dealership across the street. The roll off was in  
8 preparation for July the 1st when the new requirements  
9 came into effect, and this received very good coverage in  
10 the local press.

11           And then finally on July the 10th I received a  
12 correspondence from the North American Development Bank  
13 informing the Waste Board and CalEPA that a request for  
14 financial assistance to conduct a regional solid waste  
15 plan and feasibility study for Imperial Valley, California  
16 has been approved. So that's very nice.

17           CHAIRPERSON MOULTON-PATTERSON: Thank you,  
18 Mr. Medina.

19           Mr. Paparian.

20           BOARD MEMBER PAPARIAN: Thank you, Madam Chair.  
21 On June 19th along with yourself, Madam Chair, I helped  
22 present Mr. Mike Mohajer with the resolution from the  
23 Board commending him on his service and congratulating him  
24 on his retirement.

25           On July 7th I actually had to leave the

1 Permitting and Enforcement Committee meeting a little bit  
2 early. I want to thank Ms. Peace for taking over chairing  
3 that meeting and Mr. Jones for continuing to serve in my  
4 absence there to continue that meeting. I had to go over  
5 to the Capital to attend the hearing on the electronics  
6 waste legislation. I had the opportunity to testify very  
7 briefly on that legislation. But it is still moving  
8 forward, and there continues to be a good prospect for  
9 that legislation making it through this year.

10 On July 10th I visited some of the Sonoma County  
11 tire sites. And I wanted to especially thank Gail Grisby  
12 of the Special Waste Division for arranging the tour of  
13 the sites as well as some of the contractors and  
14 landowners who were gracious enough to join us and point  
15 out some of the important features of those sites. I also  
16 wanted to thank Diane Nordstrom for her help putting  
17 together a panel on emerging tires for the tire conference  
18 this fall in Sacramento. I'm looking forward very much to  
19 that panel.

20 I've been learning quite a bit over the past few  
21 months about some exciting new developments in the area of  
22 tires and things that other states are doing, some things  
23 that other countries are doing and especially things -- I  
24 noticed Mr. Blumenthal is here in the back row --  
25 especially some of the things that the tire companies are

1 doing elsewhere in the world that I think will be  
2 instructive for us here in California as we look to  
3 dealing with emerging tires as we move forward into the  
4 future.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
6 Mr. Paparian.

7 Mr. Washington.

8 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.  
9 Just a couple of things.

10 June 20th I attended the Conference of Black  
11 Public Officials in New Orleans.

12 June 30th, along with the Chair, I attended the  
13 manifest roll out system in Glendale at Good Year, which I  
14 felt was pretty good. We got some good press from that  
15 talking about the tire plan and going after those who are  
16 dumping these illegal tires. So I really did -- and  
17 certainly it was last minute because the Chair had not  
18 been expecting me to be there.

19 CHAIRPERSON MOULTON-PATTERSON: We're glad to  
20 have you.

21 BOARD MEMBER WASHINGTON: I was glad to join you.

22 And last let me mention July the 10th through the  
23 13th I was in New York for my graduation. I graduated  
24 from Excelsior College, and my family went down with me.  
25 I took about 30 people to New York. And it was in Albany.

1 And we went from Albany to Manhattan where I went to  
2 ground zero. I don't know if a lot of you know, I was at  
3 the World Trade Center September the 10th. I left the  
4 10th of September. I left Monday, the day before it  
5 happened. It was all over the press. That's the time I  
6 was the State Legislator. And when I got back here, I  
7 mean, I was flooded with press because they just couldn't  
8 believe that -- you know, that I was just blessed and  
9 fortunate enough to be able to get out of there at such a  
10 time as that.

11 And my family went down too. Very emotional for  
12 my mom and my dad to see that because my mom was there  
13 with me. She left around the 8th of September, and I  
14 stayed a few more days. And I would have been there if  
15 the Speaker hadn't ordered me to come back to the Capitol.  
16 That was a very historical moment for my family.

17 CHAIRPERSON MOULTON-PATTERSON: We certainly want  
18 to give our congratulations. That's great on your  
19 graduation.

20 BOARD MEMBER WASHINGTON: Thank you.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 As Mr. Paparian said, I was also fortunate enough  
23 to give the resolution to Mike Mohajer down at the L.A.  
24 County Task Force meeting. It was really great to see  
25 Senator Roberti who is now a member of that task force.

1 And it was just really nice. I just want to say, you  
2 know, of course the resolution was on behalf of all the  
3 Board members, and Mr. Mojaher couldn't have been more  
4 pleased. He said it was the real highlight of his whole  
5 career. It was special we were able to do that.

6 I also served on a panel discussing zero waste at  
7 the Air and Waste Management Association. As  
8 Mr. Washington said, we spoke at the press conference in  
9 Glendale on the waste tire manifest system, and there's a  
10 lot of enthusiasm about this manifest system. I want to  
11 thank Mr. Jones for your leadership in developing that  
12 manifest system. And I think it's a real step forward.  
13 And there was a lot of enthusiasm.

14 I also spoke at the Environmental Ambassador  
15 Professional Development Institute in Los Angeles. As you  
16 know, this is a direct result of SB 373. And, again,  
17 we've really made some progress there. And Ms. Broddrick  
18 and her team and everyone else that's worked on that,  
19 Mr. Schiavo, it's really all coming together. And there's  
20 a lot of enthusiasm, and it was just a real honor to be  
21 there.

22 And with that, I'm going to turn it over to our  
23 Executive Director, Mark Leary, for his presentation.

24 EXECUTIVE DIRECTOR LEARY: Good morning, Madam  
25 Chair, members. And a special congratulations to Member



1 Washington from the staff.

2 I'd like to piggyback on some of your positive  
3 comments in regards to the tire manifest regulations.  
4 Thank you for your positive comments so far this morning.  
5 It is a big moment in our history to have accomplished the  
6 roll out of the tire manifest regulations following up on  
7 Senate Bill 876.

8 Special mention to the leadership provided by  
9 individuals like Doug Ralston in the Information  
10 Management Branch, and within the Program, Don Dier and  
11 Keith Cambridge, and from our legal office Wendy Breckon.  
12 I'd like to pass on my personal thanks and  
13 acknowledgement of those four key individuals that brought  
14 this huge effort to fruition.

15 I have a number of other smaller items, but as  
16 Board custom, I do want to touch on our budget situation.  
17 And I will save that for last, and that will be a few  
18 minutes in presentation. Little longer than I customarily  
19 provide in this setting.

20 Further in the good news department, the Office  
21 of Administrative Law judge has approved our most recent  
22 construction and demolition transfer and processing regs  
23 with the numerous changes I've shared with you already.  
24 This regulatory practice represents an intense effort on  
25 the part of the Board members, staff and stakeholders.

1 I'd like to particularly offer kudos to Michael Bledsoe,  
2 Allison Spreadborough, Bob Holmes, Mark de Bie, Georgianne  
3 Turner, Sue O' Leary for their fine and timely work.

4 A little bit of bad news is the OAL will not  
5 approve the section requiring OSHA training for EAs  
6 claiming we don't have the authority to direct that or  
7 require that.

8 Further in the good news department, good news to  
9 report on the cleanup of the Archie Crippin site in  
10 Fresno. Operation and immediate planning are underway for  
11 a massive remediation effort to begin at the property next  
12 week in Fresno. Last month the Board directed staff to  
13 solicit further contributions from participating agencies  
14 and responsible parties toward the cleanup of Crippin. As  
15 a result, I received proposals from the City of Fresno and  
16 Mr. Crippin in the form of additional in-kind services, as  
17 well as from U.S. EPA in the form of \$1 million worth of  
18 hauling services.

19 Cleanup program staff is working with these  
20 parties to effectively integrate these contributions into  
21 the overall cleanup effort. We are finalizing project  
22 planning with the agencies and contractors with the  
23 intention of loading, transporting, and disposing the  
24 majority of the debris the Class II Kettleman Hills  
25 facility. Recyclable materials, such as concrete and

1 metal, will be segregated out into separate files for  
2 further processing. We're tentatively scheduled to begin  
3 next week, the week of July 21st, and we're projecting to  
4 be completed by the end of August with the least impact on  
5 the community as possible.

6 In the emergency department, the Heaps Peak  
7 Transfer station, the San Bernardino County Board of  
8 Supervisors has renewed its declaration of emergency  
9 related to the bark beetle infestation. And the county  
10 LEA has approved an extension of the existing emergency  
11 waiver for the Heaps Peak Transfer Station. This amended  
12 waiver extends until midnight October 18th.

13 Then at Puente Hills, the L.A. County Sanitation  
14 District and the L.A. County LEA have signed a stipulated  
15 agreement permitting the Puente Hills Landfill to exceed  
16 its daily tonnage limit in order to dispose of debris  
17 related to the June 20th freight train in the City of  
18 Commerce. As you all saw on television, I'm sure, there  
19 was a tremendous amount of debris generated, and Puente  
20 Hills had to go beyond its daily limit to provide for  
21 disposal for that material.

22 Okay. That's summarizes short items. And as we  
23 typically start at the beginning of the new fiscal year,  
24 I'd like to provide to you a report on our budget and  
25 fiscal situation. It's not secret the state of California

1 is facing a fiscal crisis of historical proportions. I'd  
2 like to spend a few minutes describing what this crisis  
3 has meant or could mean to the Integrated Waste Management  
4 Board. In this brief presentation, I would like to cover  
5 what has transpired to date, where we are at this moment,  
6 and some possible scenarios for our immediate future.  
7 Further, I'd like to describe how we, as your management  
8 team, are responding to this crisis and its impact to this  
9 outstanding organization.

10 To get a sense of where we are today, you have to  
11 think a little bit about what's transpired in the last 18  
12 months or so. Back on October 23rd of 2001, the Governor  
13 executed an Executive Order 4801 that mandated a hiring  
14 freeze for all vacant positions through June 30th of 2003.  
15 That impacted us obviously in that we had to seek freeze  
16 exemptions to fill any position. Then in September of  
17 2002 Senate Bill 1777 passed and implemented Control  
18 Section 3160 which basically abolished vacant positions at  
19 that point in time, resulting in our organization  
20 abolishing 29-and-a-half positions and a reduction in our  
21 expenditure authority of almost a million dollars.

22 Earlier this year on April 1st, 2003, again,  
23 anticipating this financial crisis, the administration  
24 responded by directing a letter from the Department of  
25 Finance and the Department of Personnel Administration

1 advising agencies to reduce personnel services budgets by  
2 10 percent and prepare position reduction plan and an  
3 associated layoff plan implementing our 10 percent  
4 reduction. The purpose of these plans is, as you recall,  
5 was to achieve a \$855 million personnel services reduction  
6 to offset the employee compensation costs that were  
7 increased, that increased as the result of bargaining  
8 negotiations in prior years.

9           On April 22nd, 2003, we submitted our 10 percent  
10 plan to the control agencies. 10 percent for the  
11 Integrated Waste Management Board was \$2.8 million. We  
12 developed and proposed the elimination of 51 positions,  
13 many of which were vacant throughout the organization and  
14 emphasis was placed on minimizing the Board's impact and  
15 impact on our program.

16           On May 30th of this year DPA approved the  
17 Integrated Waste Management plan and directed us to  
18 implement.

19           Separate and apart from these administrative  
20 measures that were taking place, of course our budget was  
21 being considered by the Legislature. And we testified at  
22 budget committees in both houses, and it was clear to us  
23 that there was somewhat of a focused effort on the Board,  
24 particularly on Board members and their offices as a  
25 result of actions by both the Assembly and the Senate

1 budget committees and ultimately culminating in the  
2 resolution of the item in Conference Committee. There was  
3 a reduction in Board members' offices of six advisor  
4 positions and its related funding, four executive  
5 assistants and its related funding, one office technician,  
6 and some salary savings, to a total of \$663,000.

7           These actions taken in Conference Committee are  
8 still currently existing within the budget bills before  
9 the Legislature, AB 100 and SB 1043. Along with that, the  
10 Conference Committee directed that we reduce the remaining  
11 fund balances in several of our funds. In addition to the  
12 fact that the Governor's budget already provided loans  
13 from the tire fund as well as the Integrated Waste  
14 Management account general fund, \$50 million from the tire  
15 fund, \$2 million from the Integrated Waste Management  
16 fund, the Conference Committee, as a result of each  
17 house's respected budget committee's action, further  
18 reduced those fund reserves and provided a loan to the  
19 general fund so that reduced fund reserves in the tire  
20 fund to \$1.7 million and \$1 million reserved in the  
21 Integrated Waste Management account.

22           These funds are ultimately to be repaid to the  
23 Integrated Waste Management Board with interest calculated  
24 at a rate earned at a full money investment account at the  
25 time of transfer. These dollars are to be repaid in the

1 second half of the 2008/9 fiscal year.

2 As directed -- back to the administrative side of  
3 things. As directed by the Department of Personnel  
4 Administration, we were requested to activate our  
5 reduction plan. On June 15th we sent surplus notices to  
6 our employees. We distributed 25 notices to employees  
7 with the lowest seniority in our classification. These  
8 are surplus notices. They are not layoff notices. It  
9 initiates a 125-day process whereby those employees have  
10 an elevated status if they were to compete for open  
11 positions in other organizations that were hiring.  
12 However, with full implementation, which is by no means a  
13 certainty at this time, our 10 percent plan may result in  
14 11 employees being laid off. But that, again, wouldn't  
15 occur until we're ultimately directed to go to layoff, and  
16 that wouldn't occur any sooner than October 15th.

17 Then things started to get interesting with the  
18 start of the fiscal year. On July 1, Executive Order  
19 D7103 directed by the Governor prohibited all state  
20 agencies and departments from filling any position,  
21 regardless of fund source, that was vacant on June 30th  
22 2003 and from spending any associated savings that may be  
23 generated from this freeze unless approved by Finance.

24 Then Finance was to request to the State  
25 Controllers Office to abolish all those vacant positions

1 in this executive order. This executive order does not  
2 affect vacancies that become vacant after June 30th, but  
3 does deal with vacancies that existed on that date. The  
4 executive order did not apply to statutorily-created  
5 positions, such as Board members, Commissioners, and  
6 Directors.

7           On the same date, the Governor implemented  
8 another executive order that created a hiring freeze from  
9 July 1st to June 30th, 2005. So the positions that do  
10 become vacant after June 30th are subject to the hiring  
11 freeze and cannot be filled without a freeze exemption.

12           On July 8th, budget letter 318 came through  
13 talking about setting up our budget policy for next fiscal  
14 year. The funding gap for the general fund in 2004/05 is  
15 anticipated at this point to be about \$7.9 billion in  
16 general funds. So there's anticipated that a further  
17 expenditure reduction plan will be required.

18           Then this Friday -- this last Friday, we finally  
19 got a little bit of what may be considered or may possibly  
20 be interpreted as some good news, budget letter 319.  
21 Among other things this budget letter provides that for  
22 funds that are exclusive to a department, which many of  
23 our funds are, departments can reduce their level of  
24 reductions from 10 percent of personnel services to the  
25 amount necessary to meet employee compensation.



1           For that, you have to understand that if you  
2 remember the 10 percent reduction effort was all pointed  
3 at adjusting budgets to compensate for employee --  
4 increases in employee compensation costs through  
5 bargaining unit contracts of several years ago to the tune  
6 of \$855 million statewide. This latest direction from the  
7 Department of Finance dated Friday morning appears to  
8 indicate for those of us with special funds, all we have  
9 to do is provide for that 5 percent compensation for our  
10 own employees and not go to this elevated 10 percent  
11 compensation or reduction that the rest of the state is  
12 living with.

13           This appears to offer some hope for the Board,  
14 depending on how it's going to be interpreted. Our rough  
15 calculation of the amount necessary to meet the employee  
16 compensation cost for this organization is 1- to \$1.2  
17 million, much less than the 10 percent threshold of \$2.8  
18 million. The Chair, our admin. deputy, and I will be  
19 attending a meeting this afternoon with the Directors of  
20 Finance and the Department of Personnel Administration to  
21 get clarification on where we go from here. I'd be happy  
22 to meet with all of you in closed session to update you  
23 when we return this afternoon.

24           So where are we at this moment? I think the best  
25 way I can characterize for you all is at this moment the

1 situation is influx. Obviously the Legislative budget  
2 negotiations are continuing. Many proposals are being  
3 considered. Negotiations between the Department of  
4 Personnel Administration and bargaining units continue in  
5 the hopes of gaining concession to relieve, again, that  
6 obligation of \$855 million.

7 Direction from our control agencies illuminated  
8 here over the last week continue to be developed in  
9 response to possible outcomes of the budget process and  
10 the bargaining unit discussions. Given these activities,  
11 these outcomes are so uncertain, yet may each have some  
12 impact on the Board, make it really difficult to provide  
13 an accurate picture of where we are right at this moment.

14 There are a number of scenarios. But even with a  
15 reduction plan of one type or another or without a  
16 reduction plan, we are a smaller organization than we were  
17 18 months ago, simply as a result of the vacancy  
18 reductions. If, in fact, we are required to go to the 10  
19 percent plan, we may be reduced to a level of resources  
20 this Board hasn't seen since fiscal year 1998/99. And if  
21 you think of the various new mandates that have come our  
22 way that we've shouldered since that time period, Senate  
23 Bill 75, Senate Bill 876, the tire program, Senate Bill  
24 1066, the 939 extension, Senate Bill 737, our education  
25 program, these have all come on since that fiscal year

1 1998/99. We will clearly have to make some adjustments  
2 with limited resources.

3           Although all future scenarios contend to be a  
4 reduction of resources, some are less pessimistic than  
5 others. As I said, there is new hope offered by this  
6 budget letter that we received on Friday morning. If  
7 ultimately the administration sees clear to interpret the  
8 language the way we think it should be interpreted, our  
9 threshold for reduction should be much less than the 10  
10 percent plan, and it's possible this Board may avoid  
11 layoffs completely and simply take the reduction of some  
12 vacant positions. That's your most optimistic scenario.

13           A more pessimistic scenario may be that we're not  
14 relieved of the obligation of the 10 percent plan. Our  
15 resources are reduced to 98/99 levels. And then depending  
16 on what happens to the budget process, the Conference  
17 Committee action as it addresses the Board members'  
18 offices may be implemented also. And we'll be adjusting  
19 to those reductions in resources also. That's the  
20 negative side of things.

21           The next budget year doesn't hold a lot of hope.  
22 With the further general fund gap in the neighborhood of  
23 \$8 billion, it's likely that further reductions will be  
24 required. Hopefully, once again, our special fund status  
25 may preserve us from that effort.

1           So what are we as a management team doing in  
2 anticipation of our somewhat reduced level of resources?  
3 We're addressing this by prioritizing our activities. We  
4 feel like through your implementation of our Strategic  
5 Plans and the various statutory mandates we have good  
6 guideposts for defining what our highest priority  
7 activities are. And we need to probably redistribute our  
8 resources to those highest priority activities. We need  
9 to streamline to the greatest extent possible. Cut out  
10 process and procedures until or unless they're absolutely  
11 necessary and without sacrificing our program's integrity.

12           I'll be seeking your input as we go through this  
13 prioritization activity and we develop a plan to address  
14 the reduction of resources and refocus our continued  
15 resources on the highest priorities. As part of this  
16 plan, we'll identify activities that we will discontinue  
17 and, if necessary, seek legislation to eliminate mandates  
18 that we do not have the resources for or are a lesser  
19 priority in our minds. We will ultimately develop this  
20 plan for the Board's consideration and endorsement.

21           In conclusion, although our level of resources at  
22 this moment remains unclear and there is no question that  
23 these are the most difficult times the Board has faced, I  
24 commit to you that the staff of this organization remains  
25 focused on this Board's mission and continues to believe

1 that our work does make a difference. I'm convinced we  
2 will endure this fiscal crisis and emerge an energetic  
3 organization, albeit slightly smaller, that is more  
4 effective in its pursuit of protection of health and the  
5 environment and the preservation of our resources.

6 Thank you. And if you have any questions, I'd be  
7 happy to take them at this point.

8 CHAIRPERSON MOULTON-PATTERSON: Questions,  
9 comments, Board members?

10 Mr. Paparian.

11 BOARD MEMBER PAPARIAN: A very sobering  
12 presentation. And obviously the budget situation we face  
13 is the most immediate and important thing before us so I  
14 don't want to dump on that at all. I just have a question  
15 about something you said very early on in your  
16 presentation, and that was the item related to the C&D  
17 regs and the OSHA training issues.

18 This was something I think most of the Board  
19 members, if not all of the Board members, thought was very  
20 important at the time we adopted those C&D regs, that we  
21 have OSHA cross training. And, in fact, in the P&E  
22 Committee we're looking at how we might expand that beyond  
23 just the C&D regs to other regulation packages as well.

24 Obviously, the action of AOL speaks for itself in  
25 terms of them thinking we overstepped our bounds in this

1 area with the C&D regs. What I'd like to encourage is  
2 that maybe ask whoever you want to come back to the P&E  
3 Committee on this, that we look at some of the  
4 alternatives that might be there for seeking this sort of  
5 cross training with our enforcement agencies or with our  
6 enforcement staff.

7           It may be possible, for example, through a  
8 Memorandum of Understanding with Cal OSHA. I know they've  
9 done this with other agencies in other areas. And it may  
10 be possible to reach some agreement with them where it's  
11 basically their authority that's been drawn on to do the  
12 OSHA-type training, rather than our authority. Or there  
13 may be some other creative ways of dealing with it. If  
14 nothing else, it may take a legislative fix. And I think  
15 that this would -- at least for me, it would be a high  
16 priority in this sort of legislative proposals we would  
17 put forward for next year.

18           EXECUTIVE DIRECTOR LEARY: We'll do that, come  
19 back to P&E Committee next month with some ideas on that.

20           CHAIRPERSON MOULTON-PATTERSON: Thank you,  
21 Mr. Paparian.

22           And while we're on the subject, I'd like to ask  
23 if all Board members are available at 4:15 for a closed  
24 session on any updates we would have in this meeting with  
25 the Budget Chief and agency and Finance. Is that okay?

1 Okay. Thank you.

2 Thank you, Mr. Leary.

3 I'd like to go over the agenda at this time.

4 Item 6 and 22 have been pulled from the agenda.

5 Items 12, 13, and 14 have been moved to the  
6 August Board meeting.

7 Items 4, 8, 9, 10, 11, 21, and 23 were heard at  
8 the Committee level only.

9 Items 5, 7, 15, 17, 18, 19, and 20 are on the  
10 proposed consent calendar.

11 And Items 2, 3, 16, 24 and 25 will be heard by  
12 the full Board.

13 And there will be a closed session -- actually  
14 we'll probably have two. But I'd like to call a closed  
15 session after we finish Items 2, 3, 16, 24, and 25, which  
16 probably will be this morning. But we'll see how it goes.

17 And then item 3 is time certain for today at  
18 1:30.

19 Are there any questions about the changes or  
20 anything on the agenda, Board members? Okay.

21 Items 5, 7, 15, 17, 18, 19, and 20 are proposed  
22 for the consent agenda.

23 I understand you have a question about one item,  
24 Mr. Paparian.

25 BOARD MEMBER PAPARIAN: Yes. Thank you, Madam

1 Chair. Before we vote on to the consent calendar, I'd  
2 like to comment on Item 17, the final report for the state  
3 agency buy recycle campaign evaluation.

4 As you may know, the issue of state agency  
5 procurement in recycling has been one of my top two  
6 priorities since I've been on the Board. I don't want to  
7 pull this item off the consent calendar, but I do want to  
8 take the opportunity to thank Patty Wohl and Jerry Hart  
9 for all their work making this evaluation possible. I  
10 know Mr. Hart, I think, had some reservations about the  
11 evaluation in the beginning, but I think he's become a  
12 convert in terms of program evaluation and the value it's  
13 brought to the bigger picture as we look to what we might  
14 do with SABRAC in the future.

15 The report has many suggestions for improving  
16 recycled content purchasing, tracking, and reporting  
17 statewide among state agencies. I want to make sure we  
18 don't lose site of that. I want to make sure we follow up  
19 on the recommendations of the report. The comments made  
20 on the report I think will really help us strengthen the  
21 SABRAC program. There's things in there about what we can  
22 do in terms of our relationship with DGS. What DGS does.  
23 There's things about what we can do to support our own  
24 SABRAC activities aimed at ensuring the grant and loan  
25 dollars are properly tracked and reported. There's stuff



1 about improving our data bases. There's a lot of stuff in  
2 here that I think, taken together, will improve the  
3 already high vitality of the SABRAC program and really  
4 help us elevate it to a new level.

5           So for the future I'd be very interested in  
6 updates on how we're doing on a periodic basis with  
7 implementation of some of the recommendations in the  
8 report and how the SABRAC program is doing. I think it's  
9 one of the most important things we do is to show that the  
10 state is doing what it needs to do to demonstrate its  
11 leadership in the recycled content purchasing arena.

12           CHAIRPERSON MOULTON-PATTERSON: Thank you,  
13 Mr. Paparian.

14           I would like to thank everyone, too. This  
15 program has really turned out well. And I think it's  
16 important that state agencies are doing what we're asking  
17 jurisdictions to do.

18           So anyone wish to pull any item from consent?  
19 Again, consent is 5, 7, 15, 17, 18, 19, and 20.

20           BOARD MEMBER JONES: Madam Chair.

21           CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

22           BOARD MEMBER JONES: I'll move adoption of the  
23 consent calendar as read.

24           BOARD MEMBER MEDINA: Second.

25           CHAIRPERSON MOULTON-PATTERSON: I have a motion

1 by Jones, seconded by Mr. Medina to approve the consent  
2 calendar as read.

3 Please call the roll.

4 SECRETARY WADDELL: Jones?

5 BOARD MEMBER JONES: Aye.

6 SECRETARY WADDELL: Medina?

7 BOARD MEMBER MEDINA: Aye.

8 SECRETARY WADDELL: Paparian?

9 BOARD MEMBER PAPARIAN: Aye.

10 SECRETARY WADDELL: Peace?

11 BOARD MEMBER PEACE: Aye.

12 SECRETARY WADDELL: Washington?

13 BOARD MEMBER WASHINGTON: Aye.

14 SECRETARY WADDELL: Moulton-Patterson?

15 CHAIRPERSON MOULTON-PATTERSON: Aye.

16 Before we begin our agenda, I know Ms. Peace  
17 already addressed her Committee meeting and the  
18 cancellation of it.

19 Mr. Washington, did you -- I was happy to chair  
20 your Committee, and I didn't know if you had any special  
21 comments. We had one item, Item Number 2, consideration  
22 of grant award for the used oil recycling block grant  
23 program, and this was approved 2-0, and thank you for the  
24 opportunity to chair that Committee.

25 Do you have anything additional to say on it?

1 BOARD MEMBER WASHINGTON: No.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you,  
3 Mr. Washington.

4 We'll begin our agenda with Item Number 1, and  
5 I'd like to read the statement on Item 1.

6 On June 18th, 2003, the California Integrated  
7 Waste Management Board heard the appeal of Redwood Rubber,  
8 LLC, contesting the decision of the Executive Director to  
9 disallow costs in the amount of \$28,885 claimed by Redwood  
10 Rubber under tire recycling grant TR 11-98-2762.

11 After the I closed the hearing, the Board  
12 deliberated on this matter in closed session on June 18th,  
13 2003, and July 8th, 2003. The Board was unable to reach a  
14 decision to grant the appeal or to deny the appeal and  
15 determined that further deliberations would not resolve  
16 the matter. Note that a four vote majority is required  
17 for all Board decisions by Public Resource Code Section  
18 40410(a).

19 The appeal by Redwood Rubber having failed, the  
20 decision of the Executive Director to disallow costs in  
21 the amount of 28,885 claimed by Redwood Rubber stands.  
22 Because no formal decision was reached, the Board will not  
23 issue a written decision in this matter other than a  
24 statement of decision that reflects the information I have  
25 just stated.

1 Any questions or concerns? Okay. We'll move on.

2 Oh, excuse me. Mr. Medina.

3 BOARD MEMBER MEDINA: Thank you, Madam Chair.

4 I just wanted to state for the record that I was  
5 not present at this deliberation as I was called to jury  
6 duty in San Francisco.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
8 Mr. Medina.

9 We are going on to our new business, and I'd like  
10 to call on Mr. Medina, the Chair of Special Waste, to  
11 report on his Committee,

12 BOARD MEMBER MEDINA: As Chair of the Special  
13 Waste Committee, I'd like to report on the following. In  
14 regards to Item 2, consideration of used oil recycling  
15 grant, the recipient was given a fiscal consensus by the  
16 Committee, 11,079,748 will be awarded throughout the  
17 state.

18 Item 3, consideration of remediation options for  
19 the Sonoma County waste tire sites was not heard by the  
20 Special Waste Committee. This item will be heard at  
21 closed session due to legal issues associated with it and  
22 then will be brought back before the full Board at time  
23 certain for 1:30.

24 Item 4, discussion of the draft report on the  
25 evaluation of academic resources for a tire research

1 center was heard by the Committee. The report produced  
2 three options. Staff was directed to elaborate on the  
3 three and will be making a presentation at a later date.

4 Consideration of criteria for the tire track and  
5 other recreational surfacing grant program was voted on  
6 the consent calendar.

7 And that concludes my report.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
9 Mr. Medina.

10 That brings us to Item 2, Mr. Lee.

11 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

12 Good morning, Board members. My name is Jim Lee with the  
13 Special Waste Division.

14 Board Item 2, consideration of the grant awards  
15 for the used oil recycling block grant program for fiscal  
16 year 2003/2004. This item was heard by the Special Waste  
17 and the Budget and Administration Committees and  
18 recommended for consent.

19 Please note that since the Committee meetings,  
20 minor revisions have been made to Attachment 1 and  
21 Attachment 3 of the item. Specifically, we are pleased to  
22 note that with the assistance of the Board Chair's office,  
23 that the City of Fountain Valley have been prevailed on to  
24 paid the past-due amount owed to Board and complete their  
25 annual reports from previous grant cycles.

1 CHAIRPERSON MOULTON-PATTERSON: My offer to hand  
2 carry it worked, I think.

3 DEPUTY DIRECTOR LEE: Apparently so, Madam Chair.  
4 Therefore, the City of Fountain Valley is now  
5 eligible to receive their ninth cycle used oil block grant  
6 award as the agenda item now reflects.

7 In conclusion, staff recommends that the Board  
8 approve Resolution 2003-381 as revised.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
10 Mr. Lee.

11 Mr. Medina, did you want to move that one?

12 BOARD MEMBER MEDINA: Yes, ma'am. I would like  
13 to move that resolution.

14 BOARD MEMBER PAPARIAN: Second.

15 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
16 by Mr. Medina to approve Resolution 2003-381, seconded by  
17 Mr. Paparian.

18 Please call the roll.

19 SECRETARY WADDELL: Jones?

20 BOARD MEMBER JONES: Aye.

21 SECRETARY WADDELL: Medina?

22 BOARD MEMBER MEDINA: Aye.

23 SECRETARY WADDELL: Paparian?

24 BOARD MEMBER PAPARIAN: Aye.

25 SECRETARY WADDELL: Peace?

1 BOARD MEMBER PEACE: Aye.

2 SECRETARY WADDELL: Washington?

3 BOARD MEMBER WASHINGTON: Aye.

4 SECRETARY WADDELL: Moulton-Patterson?

5 CHAIRPERSON MOULTON-PATTERSON: Aye.

6 That takes us all the way into our Sustainability  
7 and Market Development area of the agenda.

8 And Mr. Jones, would you like to report on your  
9 Committee?

10 BOARD MEMBER JONES: Thanks, Madam Chair.

11 Just briefly, we heard nine items. Five of those  
12 were on consent and have been approved. We have put  
13 forward the RPPC item as well as the L.A. County -- or  
14 L.A. city regional agency, the compliance order issues.  
15 Those two items, L.A. regional agency and the compliance  
16 order for L.A., went forward with 2-0 vote recommendation.  
17 But because it was such an important issue, we felt it was  
18 important that the whole Board discuss it. There have  
19 been a few developments since that meeting that when the  
20 item comes forward I have some concerns about as far --

21 CHAIRPERSON MOULTON-PATTERSON: That's Item 25?

22 BOARD MEMBER JONES: Yes, ma'am. And we'll talk  
23 about it then. But that's my report.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

25 And I neglected to call on Mr. Papanian. Would

1 you like to report on P&E?

2 BOARD MEMBER PAPARIAN: Yeah. Whenever it's  
3 appropriate, Madam Chair.

4 CHAIRPERSON MOULTON-PATTERSON: Okay.

5 BOARD MEMBER PAPARIAN: Do you want to wait until  
6 after this group or --

7 CHAIRPERSON MOULTON-PATTERSON: Yeah. I just  
8 didn't want you to think I moved over -- I did move over.  
9 Okay.

10 Number 16.

11 DEPUTY DIRECTOR WOHL: Good morning, Madam Chair,  
12 Board members. Patty Wohl, Waste Prevention and Market  
13 Development Division.

14 Agenda Item 16 is consideration of the completion  
15 of the 1997 through 1999 rigid plastic packaging container  
16 RPPC compliance agreements for the listed companies.

17 And Jan Howard will present.

18 MS. HOWARD: Good morning, Madam Chair, Board  
19 members. Jan Howard with the Plastic Recycling Technology  
20 Section.

21 I would like to begin by informing the Board that  
22 staff will not be addressing K-Mart today as included in  
23 the item and will address K-Mart at a future date.

24 That being said, staff is presenting seven  
25 companies this month and requests that the Board approve



1 the companies as identified under Options 1, 2, and 5,  
2 excluding K-Mart and recommend the Board adopt Resolutions  
3 2003-386 and 2003-388 through 2003-393.

4 This concludes my presentation, and I would be  
5 happy to answer any questions.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
7 much.

8 We do have a public speaker on this.

9 Did you wish to speak, Mr. Washington?

10 BOARD MEMBER WASHINGTON: Yes, just briefly.

11 In terms of K-Mart, what's the issue with K-Mart?

12 MS. HOWARD: We've recently received additional  
13 information from K-Mart regarding their certification that  
14 requires further follow-up with them, and we will be  
15 bringing it back.

16 BOARD MEMBER WASHINGTON: Thank you.

17 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

18 Randy Pollack.

19 MR. POLLACK: Madam Chair, members of the Board,  
20 Randy Pollack on behalf of K-Mart. And I just want to  
21 thank the staff for putting this over for an extra month  
22 while we gather additional information.

23 And Member Washington, in response to your  
24 question, what has occurred is K-Mart has just recently  
25 introduced a new private label line, the American Fair

1 line, which they had phased out two years ago. And  
2 beginning within the last two months, they have rolled out  
3 a series of new products. I'm now in contact with the  
4 companies who are supplying these products just to make  
5 sure they are in compliance with California law. Thank  
6 you.

7 CHAIRPERSON MOULTON-PATTERSON: Thanks.

8 Do we have a motion for Item 16? I guess there's  
9 a bunch of resolutions.

10 Mr. Jones.

11 BOARD MEMBER JONES: Thanks, Madam Chair.

12 I'll move adoption of Resolutions 2003-386, 388,  
13 389, 390, 391, 392, 393.

14 BOARD MEMBER MEDINA: Second.

15 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
16 by Mr. Jones, seconded by Mr. Medina to approve  
17 Resolutions 2003-386, 388, 389, 390, 391, 392, 393.

18 Without objection, please substitute the previous  
19 roll call.

20 24.

21 DEPUTY DIRECTOR SCHIAVO: Good morning, Pat  
22 Schiavo, Diversion, Planning, and Local Assistance  
23 Division. I'd like to introduce Items 24 and 25.

24 Item 24 is consideration of the Los Angeles area  
25 Integrated Waste Management Authority Regional Agency

1 formation agreement, and 25 is consideration of issuance  
2 of a compliance order relative to the regional agency  
3 agreement.

4 And Phil Morales will make the presentation.

5 MR. MORALEZ: Good morning, Madam Chair and Board  
6 members.

7 On Tuesday, July 8th, the Sustainability and  
8 Market Development Committee forwarded these two items to  
9 the Board for full consideration. Item 24 is the  
10 consideration of the Los Angeles area Integrated Waste  
11 Management Authority regional agency formation.

12 Board staff and legal counsel have reviewed this  
13 regional agency agreement and determined that all  
14 statutory provisions of the Public Resources Codes have  
15 been met. Staff recommend Board adopt Option 2 of the  
16 Agenda Item 24, Board authorization of this regional  
17 agency condition with a requirement that program  
18 activities specified in the participating cities  
19 Board-approved compliance orders and/or time extensions  
20 must be completed and fully implemented. Of the 15  
21 jurisdictions proposed for the regional agency, three have  
22 had the goal, nine have received SB 1066 time extensions,  
23 and three are on compliance orders.

24 Board staff is asking the Board to consider  
25 concurrent to the formation of the regional agency Item 25

1 to consider issuance of a compliance order relative to the  
2 Los Angeles area Integrated Waste Management Authority  
3 regional agency. Members of the Sustainability Committee  
4 and Markets Committee were informed that a discussion  
5 agenda item was being scheduled for the August meeting  
6 regarding one of the compliance order cities for not  
7 submitting their corrective plan of action for the June  
8 30th deadline.

9 Board staff recommends that the Los Angeles area  
10 Regional Integrated Waste Management Authority Regional  
11 Agency be issued a compliance order upon its formation in  
12 order for the Board to maintain its authority to enforce  
13 actions prescribed in statute and those stated within  
14 relevant existing compliance orders. This direction of  
15 responsibilities is consistent with the approach that  
16 would also be used in the event of any potential future  
17 enforcement actions that may occur with respect to any  
18 regional agency established in support of achievement of  
19 diversion requirements.

20 Board staff recommend that the Board find that  
21 the regional agency is the responsible authority for any  
22 of the regional agency members that are on compliance  
23 orders for not adequately implementing sourcing reduction  
24 and recycling element programs and approve the order of  
25 compliance included in Item 25. A representative of the

1 joint powers of authority, Karen Coca, of the City of Los  
2 Angeles Bureau of Sanitation is present to answer  
3 questions.

4 This concludes my presentation.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you. We  
6 have two Board member questions, Mr. Washington and  
7 Mr. Paparian.

8 BOARD MEMBER WASHINGTON: Is there -- I  
9 understand that Public Resource Code allows the formation  
10 of jurisdictions to form these JPAs. Is there anything  
11 that -- let me rephrase it. Is there any reason -- what  
12 reason, should I ask, the Board can have to deny the  
13 formation of this JPA?

14 MR. MORALEZ: That would be a question for our  
15 legal staff to answer.

16 STAFF COUNSEL BLOCK: No problem. Elliot Block  
17 from the Legal Office.

18 The statute doesn't set out a large amount of  
19 criteria. There's some very basic things that need to be  
20 included in the regional agency agreement, fairly  
21 straightforward things like a list of the jurisdictions  
22 involved, a contingency plan if the regional agency were  
23 to go away, and two or three other provisions. So  
24 obviously if the agreement didn't include any of those,  
25 that would be one basis. And in our analysis, those parts

1 are all included.

2 Statute also provides -- and this is discussed in  
3 the item as well -- that the intent of allowing -- the  
4 legislative intent of allowing a regional agency does not  
5 include a situation where forming the regional agency  
6 would result in a reduction in diversion programs or  
7 diversion going on. So if the Board had information that  
8 allowed them to make a determination that a particular  
9 regional agency would result in a reduction of programs,  
10 that would be a basis for doing it. That's about it.  
11 It's a fairly straightforward and concise --

12 BOARD MEMBER WASHINGTON: So, for instance, would  
13 the City of Los Angeles -- we can't save them from  
14 themselves; is that correct? If it looks like they're  
15 ready to make one of their biggest mistakes of their  
16 lifetime, we can't say, "You guys are making a mistake.  
17 Don't do this."

18 STAFF COUNSEL BLOCK: In order to make a  
19 determination like that, I mean the Board would need to  
20 have what we refer to as substantial evidence in the  
21 record. That doesn't mean greater than a 50 percent  
22 chance something could go wrong, but it needs to be based  
23 on some factual information before us.

24 BOARD MEMBER WASHINGTON: I just need to say that  
25 because I told Karen when we had our meeting down there,

1 "You guys are really wanting to do that?" And I think all  
2 of us kind of asked this question, "Is this something that  
3 you really want to do?" I just wanted to hear what staff  
4 thought about it. Thank you.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
6 Mr. Washington.

7 Mr. Paparian.

8 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

9 I did sit in on the audience of the committee  
10 meeting on this so I have some understanding on it. But  
11 I'm still grappling with how over time we assure that  
12 localities don't skate on the big brother, like  
13 Los Angeles or some of the other entities that might have  
14 higher diversion rates.

15 DEPUTY DIRECTOR SCHIAVO: Like we would do in any  
16 biannual review, we'd be looking at the individual  
17 jurisdictions to make sure they're implementing the  
18 programs. They still have the SB 1066 requirement for  
19 nine of those jurisdictions. So we'd be able to be on top  
20 of those because in the 1066 application they'd lay out  
21 the individual programs they're implementing, plus the  
22 diversion amounts for each of those programs.

23 Also in statute it's real clear to us that we do  
24 have the ability to look at those individual programs.  
25 There's a quote that says, "It's not only the intent of

1 the Legislature enacting this article to diminish the  
2 responsibility of individual cities and counties to  
3 implement source reduction recycling composting programs  
4 as required by this part." So there still is the  
5 responsibility on the individual jurisdictions, and we  
6 would treat it as such.

7           Where it can get more complicated is just looking  
8 at the numeric part of the equation. But my understanding  
9 right now, because these are not contiguous jurisdictions,  
10 there would be individual disposal reporting taking place  
11 by each of the jurisdictions, so we still have that piece  
12 to look at as well.

13           BOARD MEMBER PAPARIAN: So if I'm understanding  
14 you right, they'll continue to have to do an essential  
15 checklist of programs?

16           DEPUTY DIRECTOR SCHIAVO: Yes.

17           BOARD MEMBER PAPARIAN: But we would be able to  
18 look beyond the checklist to see how effective those  
19 programs are. If one jurisdiction has 30 percent  
20 diversion --

21           DEPUTY DIRECTOR SCHIAVO: At this point because  
22 they -- typically in the regional agency you're going to  
23 have aggravated reporting. In this particular case, it  
24 looks like it would be individual reporting, so we still  
25 have that ability until they fill in the holes or the gaps



1 within the regional agency.

2 BOARD MEMBER PAPARIAN: But eventually it will be  
3 one report?

4 DEPUTY DIRECTOR SCHIAVO: Eventually, it would  
5 be. But we'd have to focus mostly then on the programs  
6 themselves.

7 BOARD MEMBER PAPARIAN: Okay. Thanks.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you.

9 Ms. Peace.

10 BOARD MEMBER PEACE: I guess that's what concerns  
11 me, too. I keep reading in all these documents that  
12 consolidating reporting to one annual report and one  
13 diversion rate is the primary reason for the formation of  
14 the LARA. I mean, that concerns me. All the  
15 jurisdictions need to know they're still going to be held  
16 responsible for meeting their 50 percent diversion and  
17 they just can't go under this umbrella and get out of  
18 that.

19 And I had one other question, I guess, for legal.  
20 They said we have to have substantial evidence to deny  
21 this. What if we approve this, two years from now, three  
22 years from now we're saying this is just not working at  
23 all. Other jurisdictions have not joined. You know,  
24 there's no contiguous thing here. They're all over the  
25 place. There's only 15 out of 89. This is not working.

1 It's making it very difficult for our DPLA Department. Is  
2 there anything we can do to then say, you know, we're  
3 going to disband this? You can't do this anymore.

4 STAFF COUNSEL BLOCK: That's an interesting  
5 question. Statute really doesn't address unapproving a  
6 regional agency that's already been approved. However,  
7 the Board certainly has all the usual compliance and  
8 enforcement methods before it. So, for instance, if we're  
9 unable to determine whether the regional agency is in  
10 compliance because of the way that it's set up or if we  
11 are able to determine that, in fact, it's not doing what  
12 it -- all the various programs that the individual cities  
13 are required to do, the Board certainly at that point  
14 would be able to -- if there was an existing compliance  
15 order, we'll use that to move forward. Or if the one that  
16 you're going to be considering in the next item is  
17 complete, you could always at a future point in time issue  
18 a new one if there are some -- if the regional agency and  
19 the way it's structured is causing some failures to meet  
20 the diversion requirements. But it all plays off of  
21 diversion requirements.

22 So I guess the short answer is there's no simple  
23 provision in the statute to unapprove the regional agency.  
24 But you would have -- you do have some enforcement  
25 authority which would be able to address those issues.

1           BOARD MEMBER PEACE: Right now there's only 15  
2 out of 89 jurisdictions that are agreeing to be a part of  
3 this LARA. I know their hope is that more jurisdictions  
4 will join. Is there anything that says that other  
5 jurisdictions can't get together and form another regional  
6 agency? So instead of having essentially all 89 under one  
7 agency that you can have several different --

8           STAFF COUNSEL BLOCK: There's nothing that would  
9 prohibit that you can have more than one regional agency  
10 within the Los Angeles area made up of different  
11 jurisdictions.

12          BOARD MEMBER WASHINGTON: Madam Chair, can I just  
13 do a follow up to that point?

14          CHAIRPERSON MOULTON-PATTERSON: Yes, Mr.  
15 Washington a follow-up, and then Mr. Jones.

16          BOARD MEMBER WASHINGTON: Mr. Block, can we adopt  
17 any regulations as it relates to JPA saying if you create  
18 the JPAs, and we see they don't work, and we can put a  
19 time specific on them, a year or two, if it's not working  
20 that you have to come back before the Board and give us  
21 the opportunity then to review? Is that possible?

22          STAFF COUNSEL BLOCK: You mean separate from this  
23 particular action just --

24          BOARD MEMBER WASHINGTON: Exactly.

25          STAFF COUNSEL BLOCK: -- establish our own

1 regulations?

2 BOARD MEMBER WASHINGTON: Correct.

3 STAFF COUNSEL BLOCK: We can. Theoretically the  
4 answer is yes. The interesting issue -- and we'd have to  
5 have some discussions with the Office of Administrative  
6 Law. As you just heard earlier today, they have their own  
7 opinions as to exactly how much authority we have. We  
8 could certainly explore that. And then the advantage of  
9 regulations is certainly we can set out some process, if  
10 you will, for either limiting the time for approval of the  
11 regional agency or unapproving it.

12 I can't tell you as we sit here today whether the  
13 Office of Administrative Law would agree we have the  
14 authority to establish those regulations. But we can  
15 certainly look into it.

16 BOARD MEMBER WASHINGTON: If there it's not a  
17 statute -- they don't agree with anything really if it's  
18 not in statute.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you.

20 Mr. Jones.

21 BOARD MEMBER JONES: Thank you, Madam Chair.  
22 Just a couple issues. One of my concerns -- and I have a  
23 few -- but with the reporting entity being the agency. It  
24 sounded pretty clear to me when we read statute that we  
25 are required to look at each city's participation. It's

1 never been just the numbers. It's been the programs, do  
2 they validate the number?

3 One of my concerns is when the city of L.A. was  
4 coming forward, they were working like heck to get the  
5 number as high as they could. And my concern at that time  
6 was others were going to get on their coattail and take  
7 advantage of that extra 12 percent.

8 I think it's pretty clear that as long as statute  
9 says that, you know, each city has got to participate with  
10 its programs, is there anything that we need to do to this  
11 resolution to make sure that that is crystal clear?  
12 Because I'm afraid in a couple years -- especially the  
13 effort a few years ago on AB 1939 that basically came out  
14 of Southern California where they wanted to just be able  
15 to list the programs they were doing. One of the issues  
16 was a curb side program that picks up five items versus a  
17 curb side program that picks up one item would basically  
18 under the way that was written both be deemed in  
19 compliance. With the regional agency, is the fact that  
20 the city of L.A. has a curbside program enough to mean  
21 that every jurisdiction in the agency has a curbside  
22 program? We can't get there. We've got to protect the  
23 integrity of those individual programs.

24 DEPUTY DIRECTOR SCHIAVO: I'm not sure if this  
25 gets where you want to, but on the third whereas on the

1 second page of the resolution, we had the language that  
2 talks about the individual city and counties'  
3 responsibilities for implementing their programs. I don't  
4 know if you want to have more specifics.

5 STAFF COUNSEL BLOCK: In addition, if you look at  
6 the last couple of the lines at the resolve clause,  
7 there's some specific language -- the short answer is as  
8 we've analyzed this, the individual jurisdictions by  
9 forming the regional agency are not relieved of their  
10 responsibilities to implement their 1066 plans and/or  
11 their performance plans under the compliance orders. And  
12 we've been very clear in communicating that with them.

13 We've then taken an extra step to put some  
14 specific language in the resolution as well. And the  
15 question is if the Board feels like it wants to add some  
16 additional language, that's certainly your prerogative to  
17 do. We've tried to go there. Certainly, the record at  
18 the Committee meeting today is also helping to make very  
19 clear what's the Board's understanding of what it's  
20 approving, but they're certainly always able to add some  
21 additional language if that would add to your comfort  
22 level.

23 BOARD MEMBER JONES: I think the language is  
24 enough. Ms. Coca has been very forthcoming. That's how  
25 they understand it, and that's how they're going to run

1 it. I would say we may not have a whole lot of ways to  
2 break up this JPA. But if that's our understanding as to  
3 why we're going to approve it and somehow that changes, it  
4 seems to me that becomes material as to -- that was  
5 critical, at least to this Board member, as to why I would  
6 even consider voting on it, is that affirmation they would  
7 all be looked at separately. So I think anything that  
8 broke that apart would be a breach of why I would vote for  
9 that.

10 Two other issues, Members, quickly. Members, I'm  
11 sorry. I have an issue that I talked to Ms. Coca about  
12 today. City of Gardena was put on a compliance order by  
13 this Board on January 14th. Their first requirement  
14 basically was to have a work plan delivered to this Board  
15 by June 30th. That doesn't relieve them of the compliance  
16 order. It's merely the first milestone in a series of  
17 milestones as part of this compliance order. And for  
18 those that -- to just remind some, when a compliance order  
19 is ignored or not fulfilled, the Board has a couple of  
20 options. One of them is to extend it. The other is to  
21 bring that jurisdiction in front of this Board for a  
22 hearing to assess fines.

23 I'm concerned that the city of Gardena and our  
24 staff were working very hard to come up with a work plan  
25 that had originally been signed by the city manager. And

1 evidently the same day the City Council took another  
2 action, which is their right to do, to enter into a  
3 relationship with another hauler. But when that happens,  
4 you've got to get trucks. You've got to get bins. You've  
5 got to do routing. You've got to buy assets to provide  
6 service. What does that do to the compliance order?  
7 Number one, we don't -- we don't have a work plan, which  
8 was due on June 30th. And we don't have -- in all  
9 likelihood, the city doesn't have the ability to crank it  
10 up very quick because they're still working on a  
11 contractual agreement with their new hauler.

12           And what I see as a problem here is the city of  
13 L.A. is working hard to put this agency together. And the  
14 very first action a month after we do this might be to  
15 bring them into a hearing to assess fines. And that  
16 doesn't make a whole lot of sense to me. I don't think  
17 it's fair to the city or to its member cities that that be  
18 the second action -- the first action would actually be to  
19 put them on a compliance order. The second action might  
20 be to bring the city of Gardena in here for whatever the  
21 outcome might be.

22           We have a couple of options. I know the city  
23 wants this thing done. I don't know if we have the right  
24 to deny access to one of these jurisdictions until we have  
25 evidence of completion of a late -- I mean, they're in



1 violation of their compliance order. So maybe that's the  
2 wrong word. They have not met the date on their  
3 compliance order which can trigger an action by this Board  
4 for another hearing. Do we have the ability to  
5 provisionally allow them to be in this, but condition it  
6 with -- what are our options with that one jurisdiction?  
7 I mean, do we have an option to deal with that  
8 jurisdiction separately?

9           They're at 12 percent, by the way. When they got  
10 put on compliance, they were at 12 percent diversion. 12  
11 percent. There's not a whole lot of effort that goes  
12 into -- I mean, Christ, you can get 12 percent just  
13 through a buy-back program, if it's halfway decent, and  
14 the metal that you would normally get out of scrap. So I  
15 mean, there's not a whole lot of effort that went into  
16 getting 12 percent. But I'm deeply concerned about this  
17 issue. I'd like to figure out a way to let the city get  
18 its agency, but how do we provisionally -- is there a way  
19 to condition this?

20           STAFF COUNSEL BLOCK: Well, this regional agency  
21 is unique from ones that we've looked at for a lot of  
22 reasons. This is not an issue that's ever come up, the  
23 issue of whether we can approve some of the members but  
24 not all of the members. Typically, it's not the way that  
25 our statute has been structured in terms of plans that

1 come before us and that sort of stuff. But to be very  
2 honest, I haven't done any research on that specific  
3 issue. So I really wouldn't be comfortable telling you  
4 yes or no without some time to take a look at that issue.  
5 And this is a pretty significant decision, and I wouldn't  
6 want to advise you without having a chance to take a look  
7 at that.

8 Another option is Option Number 4 in the item, is  
9 to put off any decision on the regional agency and  
10 continue it for a month. And we could take a look at that  
11 issue and any other issues that you wanted rather than  
12 making a partial decision. But I would like some time to  
13 actually look into the specific question that you asked,  
14 if that's the Board's pleasure.

15 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones, if you  
16 were finished, I had a couple questions.

17 BOARD MEMBER JONES: Sure. Thanks, Madam Chair.

18 CHAIRPERSON MOULTON-PATTERSON: As most of you  
19 know, I've been a real advocate for Los Angeles and  
20 Southern California because I know there's a lot of unique  
21 problems down there that they face, lots of them. So I  
22 want to help in any way I can.

23 I'm a little concerned -- you know, certainly if  
24 this is something they wanted and they think can work, I  
25 would be supportive. But I look here and Gardena is on

1 compliance order. Glenwood is on compliance order. And  
2 Torrance is on compliance. I've served on a JPA in a  
3 different area, and I know there's some real benefits to  
4 it. Now the benefits ultimately, Mr. Schiavo, would be  
5 that there would be -- they would get credit for -- just  
6 say the city of Gardena would be pulled up a little bit by  
7 the city of Los Angeles. Is that correct?

8 DEPUTY DIRECTOR SCHIAVO: Well, theoretically it  
9 should be based more on the program implementation, not  
10 the numbers. And the reason I say that is they're on  
11 compliance for program implementation issues. They should  
12 not be -- they should not gain benefit from Los Angeles  
13 having the huge diversion rate. And in this particular  
14 case with the 15 jurisdictions, Los Angeles -- the city of  
15 Los Angeles dominates the diversion rate. So you have  
16 them at 61 percent and the others at a much lower rate.  
17 They're going to be above 50 because of the dynamic. So  
18 that's why we're really paying particular focus on program  
19 implementation issues.

20 CHAIRPERSON MOULTON-PATTERSON: Well, let me ask  
21 you this. If it comes to fines, say -- you know, I'm not  
22 picking on Gardena or Torrance. But say one of them, you  
23 know, really came to they weren't doing what they were  
24 supposed to and we had to assess some fines. Would the  
25 fines be to the whole JPA?

1           DEPUTY DIRECTOR SCHIAVO: The entire JPA would be  
2 fined.

3           CHAIRPERSON MOULTON-PATTERSON: Would it be  
4 proportionately?

5           DEPUTY DIRECTOR SCHIAVO: Proportionately, the  
6 way I understand it, yeah.

7           STAFF COUNSEL BLOCK: The question that was asked  
8 earlier by Mr. Washington, one of the requirements of the  
9 regional agency is that it's set forth how the regional  
10 agency will divide any fine that might be imposed by the  
11 Board. The Board's fine is imposed on the regional  
12 agency, but the regional agency distributes it among its  
13 members. And there are a wide variety of ways that's been  
14 done over the years. It can be pro rata population. It  
15 can be pro rata waste disposal.

16           This particular one before you -- I can find the  
17 provision if you want -- they have actually set theirs out  
18 so it's an equal share among all jurisdictions. But  
19 that's -- I just want to clarify, the statute doesn't say  
20 that. The statute just requires the regional agency to  
21 set forth how they're going to do it. It's their choice.

22           CHAIRPERSON MOULTON-PATTERSON: I'm sure we still  
23 have some questions, but Ms. Coca is here on behalf of the  
24 city of Los Angeles. I'd like to afford her the  
25 opportunity to speak.

1 MS. COCA: Thank you, Chair Moulton-Patterson,  
2 members. Good morning. My name is Karen Coca. I'm the  
3 AB 939 program manager for the city of Los Angeles, and  
4 I've been just dying to get up. I have an entire list of  
5 things to address, so please indulge me. I think that a  
6 lot of the questions, especially the procedural ones about  
7 what we do in the event of, are things that I can address  
8 very quickly.

9 Just to give a very brief background and also a  
10 couple of responses to some of the comments, the city of  
11 Los Angeles has always supported the diversion  
12 requirements of AB 939, the numerical as well as the  
13 program requirements. I think that's one of the reasons  
14 why we are where we're at and why we intend to go further.

15 That being said, I've learned through the last  
16 few years as AB 939 program manager that there are a lot  
17 of barriers to reaching that implementation in different  
18 jurisdictions. And the barriers can reach from economic,  
19 to the political atmosphere, to a particular hauler being  
20 the only one who gets to compete. I mean, there's a lot  
21 of different reasons why folks have not been able to meet  
22 the requirements, even after taking out some of the  
23 fluctuations in the disposal reporting system.

24 The reason that I started this, the reason I  
25 still believe it's the best thing to do is because I think

1 that the big brother aspect of it is a true one, but it's  
2 in assistance, but not in allowing other cities to hide  
3 their numbers. It's been made clear by staff and it's  
4 been made clear by us to the jurisdictions many, many  
5 times that we want people to do more diversion. I mean,  
6 that's the goal of AB 939, not to do less. But we want to  
7 assist them in doing this diversion. They have a lot of  
8 other pressures on them, a lot of other activities that I  
9 think we can assist them in that.

10 As far as some of the specific issues, we have  
11 been working with Waste Board staff from the beginning to  
12 make sure that our agreement meets all the legal  
13 requirements. And we've done that. We've been working  
14 with local assistance staff on just how we would report.  
15 And as was reported to you, we will have to look at the  
16 disposal numbers separately as well as the diversion  
17 numbers separately -- well, forever, because we have to  
18 look at those programs and whether they're effective.

19 We intend not to get -- I want to make this  
20 really clear. I tend to be somewhat straightforward. We  
21 do not intend to get in the way of being able to implement  
22 programs. We want to help cities meet their requirements  
23 because we believe that the less material that goes in the  
24 landfill, the better. And I think that's been made clear  
25 by some of our city leaders in the last few months.

1           We do not intend to stand in the way of getting  
2 cities to meet their compliance objectives. And if that  
3 requires us to get involved, as it already has -- and I'll  
4 talk about that in a moment -- then we will do that. But  
5 this is a consortium of a group of cities that want to get  
6 together and do our reporting in aggregate, one report.  
7 We will still work with staff on making sure that the  
8 programs are reported separately, but we will make sure  
9 that we get everybody to the point where we're all meeting  
10 the requirements.

11           And it's going to be a challenge, as Member  
12 Washington has brought up. It will be a challenge,  
13 especially in some cases. But it's never easy to do  
14 something that hasn't been done before. And I think that  
15 if we meet the challenges we're going to meet immediately  
16 that we can prove to you that we're actually a help and  
17 not a hindrance, and I'd like that opportunity.

18           Now as far as issues, back through some of the  
19 comments that have been made -- or the questions. First,  
20 the city of L.A. did not endorse AB 939, although we were  
21 approached. We didn't believe it was the best way to go.  
22 We still believe that having some measurement of program  
23 effectiveness and implementation is going to be necessary  
24 in perpetuity.

25           Let's see. The question about fines -- potential

1 fines, division of fines. In the JPA, we set out an even  
2 spread of fines amongst the members. However, we said also  
3 that we could modify that in our bylaws. And last year  
4 AB 1482 was passed that specifically allows JPAs to  
5 apportion any potential fines by fault, rather than  
6 proportional distribution based on population or anything  
7 else. Therefore, in our draft bylaws, we have codified a  
8 procedure to find a particular city at fault if they are  
9 the ones that bring it to that sort of a serious  
10 situation. So I just wanted to answer that question.

11 Let's see. Why is L.A. doing this? I think I  
12 went into that a little bit. Practical reasons are cost  
13 savings for everyone. The city of L.A. will save money.  
14 We're developing a lot of useful tools for the regional  
15 agency, and we will have staff that work just for the  
16 members of the regional agency to help them implement  
17 programs. They will also help the city of Los Angeles,  
18 and the tools -- the reporting tools that we're putting  
19 together will also be of assistance.

20 It will also save us money in the next base year  
21 study, which, if you were here in December, you heard that  
22 cost me a million dollars. And I think that bringing the  
23 entire regional agency in, everybody shares a little bit  
24 of the cost. It should be much more cost effective for  
25 everyone.



1           I think that we need -- and this is a little bit  
2 of me on my soap box. I think we need a lot more  
3 cooperation amongst individual jurisdictions. In L.A.  
4 County there's a lot of issues with boundary issues, with  
5 haulers not knowing what city they're in, reporting  
6 problems. And we're trying to address that in many ways.  
7 Staff is putting together some new regulations for  
8 reporting, but I think that working together and reducing  
9 disposal and having that be the goal for the entire number  
10 for all of us in L.A. County is going to be the best way  
11 to attack it.

12           And yes, at this point since it is voluntary,  
13 only 15 jurisdictions have elected to start out in this  
14 venture. It's a new venture. There's many cities who  
15 were termed, you know, "fence sitters." They want to see  
16 if it's going to work. They want to make sure we're going  
17 to be effective. That is their prerogative, and I respect  
18 that. So these are the folks that wanted to come in with  
19 us on a voluntary basis for our first year to see if we  
20 can do what we said that we're going to try to do.

21           And at some point our hope is to bring everyone  
22 in and to have a big enough geographical block so that the  
23 boundary issues and the disposal reporting system are not  
24 as paramount. That's an ultimate goal. But I consider  
25 that more of a long-term goal several years down the line.

1           About cities and their non-performance, I made a  
2 statement in committee, and I want to reiterate it, that  
3 as soon as we are approved as a regional agency -- and  
4 actually we started a little early because of this  
5 situation I'm going to talk about in a second -- we will  
6 be in constant contact both with the Office of Local  
7 Assistance and all of the cities in the agency. And we  
8 will help monitor. We will help facilitate communications  
9 between the Waste Board staff and the cities. We will  
10 help cities if they have new staff, if they have folks  
11 that need briefings that maybe don't understand the depth  
12 of some of the issues. We will assist them in that.

13           And bringing up the particular situation with  
14 Gardena, unfortunately, I wasn't able to be involved early  
15 on in the process. I've only become involved in the last  
16 couple of weeks which also encompassed a holiday weekend,  
17 plus the city manager has been on vacation until yesterday  
18 from the city of Gardena.

19           But what we did, as soon as we heard about the  
20 situation and this new agreement with a different hauler,  
21 we called the hauler. We sat down with the new Waste  
22 Resources, Incorporated -- that company -- sat down with  
23 them, went over the compliance plan which was drafted and  
24 the programs have been laid out. They've already drafted  
25 several of the items that need to be done and approved by

1 the city of Gardena. They intend to fully implement all  
2 the programs that are in that plan. It's just the timing  
3 right now is that it took place right at the cusp of when  
4 the compliance order plan was due.

5           And the change has created for Waste Board  
6 staff -- unfortunately, they haven't been able to get that  
7 information from the city of Gardena. So we've already  
8 acted. I've got calls into the city manager and the  
9 public works director in Gardena as we speak, and I intend  
10 to meet with them in the next few days to make sure that  
11 we help them understand just how serious this issue is and  
12 that they need to get that compliance plan together and to  
13 you, you know, as soon as possible.

14           I can't speak for what happened before two weeks  
15 ago or why things came out when they did. But I just  
16 wanted to use that as an illustration of where we can  
17 assist. Because we can call anyone. We can call a hauler  
18 and ask them to come in and meet with us. We can go --  
19 you know, Waste Board staff, because you are a regulatory  
20 agency, you're constrained in some sense because you're  
21 dealing directly with the cities. With us, whatever we  
22 need to do to make sure that everybody has the same  
23 message and that information is getting through to  
24 everyone, we will do. And that's part of what I consider  
25 my assistance to the cities. It certainly includes

1 letting them know when they're in trouble and they better  
2 do something immediately.

3 Let's see. As far as provisionally approving or  
4 having specific members, we had a couple of people -- and  
5 I don't want to preempt Elliot. I'm sure he will research  
6 this. But in that sense, we did have a couple of city  
7 attorneys review our agreement extensively, and I believe  
8 that came up. And I'm -- their opinion was that it can't  
9 be four specific members and not four other ones when it  
10 comes together with the JPA. But that's -- like I said, I  
11 can't speak as a legal opinion or anything like that. I  
12 just remember it coming up during the discussion.

13 In closing, we do intend to make sure that our  
14 members meet and exceed AB 939, not only in the diversion  
15 number, but to make sure that their programs are  
16 implemented. I'd like your go ahead to get started today  
17 so that we can actually start our first consolidated  
18 annual report and that we actually have the authority --  
19 more authority than we have already to go in and work with  
20 the cities and make sure that they come into compliance  
21 and that they remain in compliance. So I would ask that  
22 you approve Agenda Item 24.

23 CHAIRPERSON MOULTON-PATTERSON: Ms. Coca, before  
24 I call on Ms. Peace, I just wanted to ask you -- I'd  
25 really like to see this succeed. You're convinced that

1 these member cities are committed to this and are going to  
2 pull their own weight?

3 MS. COCA: Yes. First let me say yes. And let  
4 me tell you why. For most of these cities -- I went to  
5 their City Council meetings and briefed their assistant  
6 city manager or city manager beforehand and was invited by  
7 staff to their council meetings. In most of those council  
8 meetings -- no, all of them that I went to, I got up to  
9 the podium. And they asked me many of the questions that  
10 you, the Board members, have been asking.

11 It was not a quick decision. They were not  
12 misled into thinking that they would not have to implement  
13 their programs. It was very clear and on the record in  
14 all of those cities and at those council meetings that  
15 they would still have to do what they needed to do. So,  
16 yes, I'm convinced that they will. Some of them just need  
17 a little more help than others.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
19 Ms. Peace, did you have a comment or question?

20 BOARD MEMBER PEACE: I just had one question.  
21 How is this going to save L.A. money?

22 MS. COCA: When we do our annual report, we have  
23 to do a lot of individual monitoring. It's a lot more  
24 extensive in L.A. than it is in other jurisdictions. We  
25 have -- for example, just to throw out a couple numbers,

1 we have 50,000 people work for the city of Los Angeles in  
2 one or other of its departments. That's just city  
3 employees. We have many huge departments that are bigger  
4 than small jurisdictions that are proprietary and separate  
5 from the city of L.A. They keep their own budgets. They  
6 do their own programs, purchasing, everything.

7           Some of the tools that we're developing for the  
8 regional agency are going to help us track what other city  
9 agencies are doing. And also, once we get our haulers  
10 used to reporting, we're going to have everybody report  
11 the same way. And if we have all of our members reporting  
12 the same way -- and remember that the haulers in many  
13 cases are responsible for the reporting -- they're going  
14 to know that it's the same report in every city.

15           So I feel that's going to help us streamline. We  
16 won't have to do as much of our running around because  
17 it's going to streamline things for us. Plus, in our  
18 agreement, 20 percent of all the fees that come in from  
19 the cities -- and it's not a huge amount of money at this  
20 point. We have only 14 members in the city of  
21 Los Angeles. But 20 percent of the fees that are paid by  
22 these cities will go into a reserve fund for a base year  
23 study. And the city will also contribute 100,000 a year.  
24 And we will use that money for a new base year so that it  
25 will end up costing us less money for the city of

1 Los Angeles.

2 BOARD MEMBER PEACE: I had another question for  
3 Elliot or legal staff. I'm just wondering if today the  
4 Board approved this, could we condition it by saying we'll  
5 approve this for three years -- two years, three years,  
6 then require a renewal or reapplication after that time?

7 STAFF COUNSEL BLOCK: Well, as much as I hate  
8 having to admit, I don't know the answer to the question.  
9 I think it relates to the same thing for the same reasons  
10 I couldn't answer the question that Mr. Jones asked. I'm  
11 going to have to take a look at that. There's certainly  
12 nothing in the statute that says anything about temporary  
13 or approvals that will run out over time. I'm going to  
14 have to take a look at that.

15 CHAIRPERSON MOULTON-PATTERSON: Could you find  
16 out over lunch or do you need a lot of time?

17 STAFF COUNSEL BLOCK: Well, I could make the  
18 attempt and then report back to you.

19 CHAIRPERSON MOULTON-PATTERSON: We have Mr. Jones  
20 and then Mr. Medina.

21 Mr. Jones.

22 BOARD MEMBER JONES: Thanks, Madam Chair.  
23 Elliot, I'm not sure if you can get all this done by  
24 lunch, but let me ask you another question.

25 I'm a little concerned with a couple of things

1 that I heard out of -- as part of Ms. Coca's testimony.  
2 And they sort of go back to reinforcing my concern with  
3 them trying to get at 63 percent at all cost when they  
4 were doing their base year, and that scared me because of  
5 the numerical issue.

6           The bill that she talked about that passed that  
7 talks about treatment of JPAs and the fact they can assign  
8 it to the offending party, do we know if the definition of  
9 that JPA in that bill is the same as what we consider a  
10 regional agency in our statutes? Because a JPA is very  
11 different than a regional agency. And they may not have  
12 contemplated that because there are normally financial  
13 issues with the JPA and the ability to contract and the  
14 ability to enter into contracts on behalf of the JPA. It  
15 depends.

16           But I think it's important that we know if those  
17 definitions mirror each other because there is an  
18 assumption on the part of Ms. Coca that, in fact, they can  
19 just assess Gardena with the fine. Part of what happens  
20 when we get the information -- because I've gone through  
21 this once with hearings on fines -- is we look at the  
22 entity for population, for gross revenue. If they're part  
23 of the agency, their population, I think, is the entirety  
24 of those 15 cities. The gross revenue is the entirety of  
25 that gross revenue. It's going to have an impact on how



1 we do a mathematical equation as to what the fine is going  
2 to be.

3 I think if we stay consistent with what we did  
4 the last time, which may not be fair to any city in that  
5 authority, because the calculation would be done on the  
6 mass. And if it's all turned over to one jurisdiction,  
7 number one, you lose the effect -- the regional agencies  
8 were made very clear that all agencies would have to  
9 participate in the fines and -- as I remember, because it  
10 was a tool to foster compliance with the law.

11 So, I mean, I'd rather wait a month, Madam Chair,  
12 because there will be an item coming forward on Gardena.  
13 I'd rather wait a month get the answers on these  
14 questions, especially the definition of the JPA. Because  
15 you know, I don't know if that definition is the same and  
16 there is an assumption on behalf of the applicant that  
17 they can just assign all this to Gardena. And if we're  
18 going to approve the structure of this, we ought to know  
19 that answer. So I'd suggest Option 4, personally.

20 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

21 BOARD MEMBER MEDINA: Thank you, Madam Chair.

22 That's exactly what I was going to recommend,  
23 that given all the issues and questions raised here today,  
24 I see no reason why we should not go with Option 4.

25 Is there a time constraint as to why we should

1 approve this today? Is there any consequences as to why  
2 we should approve this today? Is there any reason we  
3 cannot put this until a future date until we give you and  
4 our staff more time to resolve and address some of these  
5 issues?

6 STAFF COUNSEL BLOCK: Unlike some of the other  
7 provisions under the Act, for the regional agency  
8 approvals there is no time limit that requires the Board  
9 to approve or disapprove the proposed regional agency  
10 within a certain period of time. So the Board can  
11 certainly continue this to the August Board meeting or  
12 Committee meeting, whatever the pleasure of the Board is,  
13 without any legal consequences. I can't speak to any  
14 other consequences, but legal consequences.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
16 Medina. Thank you, Mr. Block.

17 I really want to see this be successful, and I  
18 certainly believe in cities joining together and trying to  
19 make it work. So I really want this to go forward. But I  
20 do think some questions have been brought up. And if the  
21 Board members would be more comfortable continuing this  
22 until August, I would certainly -- you know, I want it to  
23 succeed. And I want to see everybody's questions  
24 answered. So I think it would be a good idea to continue  
25 it to August.

1 Any downside -- Ms. Coca, I know you wanted it  
2 this month, but I think everybody would be more satisfied  
3 if we had these answers, if we continued it to August.

4 Any comment?

5 MS. COCA: It just puts us in a position where we  
6 were beginning the preparation of 2002 consolidated  
7 report, and the cities have not paid their fees. And we  
8 weren't going to do that until approval. But other than  
9 that, it does not -- it doesn't change how we were going  
10 to operate.

11 It also creates a limitation for me. I will do  
12 what I can in these situations, you know, like the one  
13 that's come up right now without being an actual regional  
14 agency because only the Board can give me that authority.  
15 But I do understand the issues that have been brought up.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. I'd like  
17 to see it continued until August, unless there's any major  
18 objections from any Board member. Okay.

19 STAFF COUNSEL BLOCK: That would be both for this  
20 item and the compliance order?

21 CHAIRPERSON MOULTON-PATTERSON: And 25. Okay.  
22 Thank you very much.

23 The Board will now take a short break, and then  
24 the Board will be going into closed session. At 1:30 we  
25 will be back on Item Number 3, consideration of

1 remediation options for the Sonoma County waste tire  
2 sites. Thank you all very much.

3 (Thereupon a lunch recess was taken.)

4 CHAIRPERSON MOULTON-PATTERSON: I'd like to call  
5 our meeting back to order.

6 Mr. Jones, do you have any ex partes?

7 BOARD MEMBER JONES: John Cupps and Mark Aprea.

8 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

9 BOARD MEMBER PEACE: No, I have none.

10 CHAIRPERSON MOULTON-PATTERSON: I have none.

11 Mr. Medina.

12 BOARD MEMBER MEDINA: None to report.

13 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

14 BOARD MEMBER PAPARIAN: Madam Chair, I think we  
15 all received a copy of a chart that apparently was  
16 prepared by Karen Gerbosi. I think we probably need to ex  
17 parte that.

18 CHAIRPERSON MOULTON-PATTERSON: Yes. Thank you  
19 for doing that for all Board members.

20 Mr. Washington.

21 BOARD MEMBER WASHINGTON: I have none.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you.

23 We're on item -- before we begin Item Number 3, I  
24 apologize, Mr. Paparian, because of the lack of items on  
25 our calendar today, I didn't give you an opportunity to

1 give your P&E report. And so at this time would you do  
2 that before we go into Item 3.

3 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

4 I already thanked Ms. Peace for serving as chair  
5 while I was at the Capitol on SB 20 during the P&E  
6 Committee meeting.

7 The items on the P&E Committee -- just for your  
8 information, Item 6 was pulled. This was the  
9 characterization of radionuclides in landfill leachates.

10 The Water Board was unable to come to an agreement with  
11 Lawrence Livermore labs, was the reason that was pulled.

12 We had a hearing on the revised alternative daily  
13 cover regulations. We took testimony from the  
14 stakeholders. Those comments are being compiled, and the  
15 item is expected to return in August.

16 We put out for a 45-day comment, proposed  
17 amendments to regulations related to local agency -- local  
18 enforcement agency certification requirements that are  
19 based on the population of the local community. Those  
20 will be coming back to us later this year.

21 We talked about the new requirements adopted in  
22 the -- just approved by OAL, C&D regulations, possibly  
23 applying some of those requirements to other regulatory  
24 packages.

25 I wanted to especially thank Michael Bledsoe for

1 his efforts to put this agenda item together. It was a  
2 general overview of very complex issues that are important  
3 to all Board members. I know Ms. Peace was the one who  
4 really pushed for having this come forward.

5 My understanding from Mr. Levenson is that the  
6 staff will be conducting workshops over the next few  
7 months on this issue and will be returning to the Board  
8 this fall with further analysis of the issue. And again,  
9 the issue is applying some of the requirements that were  
10 in the C&D regulations to other facilities throughout  
11 other regulatory programs.

12 And then finally, we had the request for  
13 direction and revisions of the phase 2 C&D regs. The  
14 direction of the Committee was to send these regs out for  
15 a 15-day comment period. And that's going to be coming  
16 back in August.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
18 Mr. Paparian.

19 That brings us to Item Number 3, consideration of  
20 remediation options for the Sonoma County waste tire  
21 sites.

22 Mr. Lee.

23 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.  
24 And good afternoon, Board members.

25 Board Item 3 is consideration of remediation

1 options for the Sonoma County waste tire sites. Many of  
2 these sites were established -- were initially established  
3 in the 1940s, ostensibly to address erosion control  
4 problems which are prevalent in the area due to soil type  
5 and topography.

6           The landowners involved contend the tires were  
7 placed with the recommendation and support of a  
8 governmental agency, the Southern Sonoma County Soil  
9 Conservation District. The landowners' assertions are  
10 corroborated by the successor agency to the SCS, the  
11 Southern Sonoma County Resource Conservation District.  
12 With their positions supported to varying degrees by other  
13 governmental agencies, the landowners also contend that  
14 removal of the tires without concurrent implementation of  
15 erosion control will allow eroded sediment to adversely  
16 affect downgradient receding waters of the Petaluma River  
17 watershed. They also contend that some of these tire  
18 piles have been so long established that they have become  
19 the habitat for endangered amphibian species and the fire  
20 removal would disrupt this habitat.

21           All of this notwithstanding, the unremediated and  
22 unpermitted tire piles as they now exist constitute a  
23 violation of waste tire statute and regulation.  
24 Furthermore, the potential environmental and public health  
25 threats posed by a tire fire or disease-carrying vectors

1 cannot be denied.

2 In recognition of this fact, staff enforcement  
3 efforts at some of the sites were initiated several years  
4 ago. Landowners have allegedly spent more than \$1.2  
5 million on efforts to mitigate the problem. However, full  
6 and complete removal of tires from any of the sites has  
7 not been initiated or accomplished at any of the sites due  
8 to the aforementioned tangle of competing or mutually  
9 exclusive considerations.

10 However, based upon direction at the April 2003  
11 Board meeting, staff has taken seriously our charge to  
12 bring back before the Board options to move this item  
13 forward. We assembled a team of staff from the tire  
14 program, the legal office, and the executive staff to work  
15 on this item and to comprehensively explore all the legal,  
16 environmental, regulatory, and fiscal considerations  
17 bearing on this matter.

18 From this analysis, we have distilled a suite of  
19 options which we believe provide a solid foundation for  
20 Board debate and deliberation, while allowing the Board  
21 maximum flexibility and discretion for addressing this  
22 issue.

23 With that introduction, I'll ask Bob Fujii of the  
24 tire branch to continue with the next part of the staff  
25 presentation.



1 CHAIRPERSON MOULTON-PATTERSON: Thank you,

2 Mr. Lee.

3 Mr. Fujii.

4 (Thereupon an overhead presentation was  
5 presented as follows.)

6 MR. FUJII: Good afternoon, Madam Chair and  
7 members of the Board. I'm going to be providing a brief  
8 overview of the sites here initially, and get my  
9 PowerPoint fired up here.

10 Since 1993 the Board has investigated -- the  
11 Board has investigated eight sites in Sonoma County where  
12 tires, as Jim mentioned, were used for erosion control.

13 --o0o--

14 MR. FUJII: Those sites are the Silacci waste  
15 tire sites where there's approximately 175,000 tires  
16 located in two different piles. The placement of tires  
17 was done at the recommendation of the Southern Sonoma Soil  
18 Conservation District for erosion control. This landowner  
19 was issued a cleanup and abatement order in the year 2000.

20 --o0o--

21 MR. FUJII: The next slide is the North American  
22 Universal Portfolio Limited site. There are 167,000 waste  
23 tires at this site in two piles. Again, the placement of  
24 tires was done at the recommendation of the SSSCD for  
25 erosion control. This landowner was also issued a cleanup

1 and abatement order in the year 2000.

2 --o0o--

3 MR. FUJII: The next site, the Flochinni waste  
4 tire site, there are approximately 32,000 waste tires at  
5 this site. Placement of tires was sanctioned by or  
6 recommended by the SSSCD for erosion control. The  
7 landowner was issued a cleanup and abatement order in the  
8 year 2000.

9 --o0o--

10 MR. FUJII: Beebe Family Ranch site, there are  
11 approximately 402,000 tires in one large pile that  
12 meandered down a creek bed at this particular site.  
13 Again, placement of tires was done for erosion control at  
14 the recommendation of SSSCD. This landowner was issued an  
15 LOV in 2000.

16 --o0o--

17 MR. FUJII: The Infineon Sears Point, what used  
18 to be known as the Sears Point Raceway site, there are  
19 20,000 tires in ten different piles on this site. The  
20 tires were placed for erosion control at the  
21 recommendation of the SSSCD. Landowner was issued an LOV  
22 in 2000.

23 --o0o--

24 MR. FUJII: The Ahlgrim waste tire site estimated  
25 to have 40,000 waste tires in two piles. Property owner

1 used a backhoe to bury these tires on site sometime in  
2 1996. The placement of tires was done prior to their  
3 burial for erosion control at the recommendation of the  
4 SSSCD. This landowner was issued an LOV in 1998.

5 --o0o--

6 MR. FUJII: The Valley Ford site, this site has a  
7 single pile estimated to have over 30,000 tires. However,  
8 staff could not verify that number. The landowner has not  
9 granted us site access. We're not able to conduct a site  
10 investigation to verify that number. This site is,  
11 however, not within the jurisdiction of the SSSCD. So  
12 there has been no recommendation to our knowledge that the  
13 tires were placed there for erosion control. We have  
14 taken no enforcement action against this site to date.

15 --o0o--

16 MR. FUJII: The Wilson Beebe tire site, estimated  
17 to have 179,000 waste tires in four different piles.  
18 Again, this site is also not within the jurisdiction of  
19 the SSSCD so there is no formal recommendation that the  
20 tires were placed for erosion control on this property as  
21 well. And staff has not taken any enforcement action  
22 against this property owner.

23 --o0o--

24 MR. FUJII: Next, because of the circumstances  
25 surrounding the Sonoma sites are different, we have

1 divided this group of sites -- this group of eight sites  
2 into three distinct groups.

3 --o0o--

4 MR. FUJII: This first group are sites within the  
5 jurisdiction of the SSSCD. The next condition is that the  
6 landowners assert that the tires were used for erosion  
7 control at the recommendation of the SSSCD. And this  
8 group contains -- this group includes Silacci Waste Tire  
9 Site, North American Universal Waste Tire Site, Flochinni  
10 Waste Tire Site, the Beebe Family Ranch tire site, and the  
11 Sears Point Waste Tire Site.

12 --o0o--

13 MR. FUJII: The next group of sites or the  
14 next -- it's only one site in it. But this site is --  
15 this group also includes sites that are within the  
16 jurisdiction of the SSSCD. The landowner asserts that the  
17 tires were used for erosion control at the recommendation  
18 of the SSSCD. But, however, the property owner buried the  
19 tires without authorization on his property, which is a  
20 violation of solid waste law. This particular group  
21 contains just one site, the Ahlgrim waste tire site.

22 --o0o--

23 MR. FUJII: And then the last group, Group 3,  
24 these sites are outside the jurisdiction of the SSSCD.  
25 But we understand that they are within the jurisdiction of

1 the adjoining resource conservation district, the Gold  
2 Ridge Resource Conservation District in Sonoma County. At  
3 this point it's unclear whether any recommendation was  
4 made by that resource conservation district that the tires  
5 be used as erosion control. And this group contains two  
6 sites, the Valley Ford site and the Wilson Beebe Waste  
7 Tire Site.

8 --o0o--

9 MR. FUJII: I'd like to talk briefly about the  
10 remediation options at this point. The staff is  
11 presenting, as can you see in the agenda, five remediation  
12 options. All these options incorporate issuance of a  
13 cleanup and abatement order to give the Board the  
14 authority to enforce or negotiate a stipulated agreement.

15 --o0o--

16 MR. FUJII: The staff is recommending that the  
17 Board consider these five proposed remediation options for  
18 the group site -- Group 1 sites only.

19 For the Group 2 sites, staff is recommending that  
20 the Board pursue enforcement action against the owner of  
21 the Ahlgrim waste tire site for illegal disposal.

22 And for the Group 3 sites, the Board may consider  
23 proposed remediation options or provide staff with  
24 additional direction on how to proceed with those  
25 particular sites in that group.

1 --o0o--

2 MR. FUJII: And then in terms of remediation, for  
3 remediation Option 1 is essentially issue a CNA to all  
4 sites, pursue full Board enforcement process with  
5 Board-managed remediation, and full cost recovery. This  
6 is, generally speaking, the process that we follow for  
7 most tire sites.

8 Under this option, the Board directs staff to  
9 continue enforcement action against the landowners. And  
10 if the landowners do not comply, staff would seek approval  
11 of a Board-managed remediation project and pursue cost  
12 recovery on all sites.

13 --o0o--

14 MR. FUJII: Some advantages of Option 1. This  
15 option would essentially eliminate the threat of fire and  
16 the spread of disease transmitted by mosquitoes. It would  
17 follow the Board's normal enforcement process as described  
18 in Section 5 of the item. And then lastly, it would allow  
19 the Board to not incur liability or expense for any future  
20 erosion control projects.

21 --o0o--

22 MR. FUJII: Some disadvantages of this option,  
23 the Board would likely need to pursue site access which  
24 would increase the cost and delay the project. The reason  
25 for this, it would likely create an adversarial

1 relationship between the Board and the landowner. The  
2 Board would need to address the concerns raised by the  
3 other regulatory agencies which also would increase the  
4 cost and potentially delays the remediation of the sites.  
5 And since all projects must comply with CEQA, this could  
6 also increase the cost and delay the projects.

7 --o0o--

8 MR. FUJII: Remediation Option 12, under this  
9 option we would issue CAO orders to all sites again,  
10 negotiate with the landowners regarding Board managed  
11 remediation limited to only tire removal and then pursue  
12 cost recovery. Under this option the Board would direct  
13 staff to conduct a Board managed remediation project to  
14 remove all the exposed tires. And then landowners would  
15 be essentially responsible for all erosion control on  
16 their properties.

17 --o0o--

18 MR. FUJII: The cost recovery would be negotiated  
19 based on the following factors: The landowner obtain all  
20 permits required by public agencies; the Board's  
21 involvement would be limited to waste tire removal only;  
22 the landowners satisfy all mitigation measures required by  
23 any public agencies as a result of the waste tire removal;  
24 and the Board would not be responsible for any future  
25 issues associated with any mitigation measures required by

1 the other agencies.

2 --o0o--

3 MR. FUJII: And the next, landowners would  
4 provide documentation of funds and resources expended to  
5 date for remediation -- the landowners would provide  
6 documentation of any funds and resources spent on  
7 remediation measures to date.

8 And the last one would be that the landowners  
9 agree to satisfy their negotiated cost recovery  
10 obligations.

11 --o0o--

12 MR. FUJII: Some of the advantages of Option 2.  
13 As in Option 1, it eliminates a threat of tire and the  
14 spread of disease transmitted by mosquitoes. The Board  
15 would not incur any liability or expense for future  
16 erosion control projects, and we would likely be granted  
17 voluntary site access by the landowners under this option.

18 --o0o--

19 MR. FUJII: Some of the disadvantages. This  
20 option may set a -- may be seen as a precedence on how the  
21 Board will deal with other yet-to-be identified illegal  
22 sites in counties where the owners may claim they have  
23 used the tires as an erosion control measures.

24 --o0o--

25 MR. FUJII: Remediation, Option 3. Again, we



1 would issue COAs to all sites, negotiate with landowners  
2 regarding Board-managed remediations limited to tire  
3 removal only and landowner -- not only -- limited tire  
4 removal and landowner-managed erosion control with Board  
5 grant funds and pursue cost recovery. This option is  
6 essentially the same as Option 2, except in this one we  
7 would award a grant for demonstration project in which  
8 tires would be used for erosion control. The conditions  
9 for cost recovery are the same as I mentioned in Option 2.

10 --o0o--

11 MR. FUJII: And then the advantages are also the  
12 same as in Option 2.

13 --o0o--

14 MR. FUJII: The disadvantages for Option 3. Due  
15 to the site conditions, all sites may not qualify to  
16 receive a grant. The following issues would need to be  
17 addressed. The first would be, does the proposed erosion  
18 control project qualify as a demonstration project for  
19 Board purposes? Next, which sites would be appropriate  
20 for such a project? And then lastly, if more than one  
21 site is appropriate, to determine which site to authorize  
22 as a project site.

23 --o0o--

24 MR. FUJII: Remediation Option 4, again issue  
25 cleanup and abatement orders to all sites. Negotiate with

1 landowners to allow them to implement their own erosion  
2 control project, which would include burial of some whole  
3 tires without Board involvement. Under this option, the  
4 landowners would submit a proposed erosion control project  
5 to the Board and the other appropriate regulatory agencies  
6 for approval. And then the project would be implemented  
7 by the landowners at no cost to the Board.

8 --o0o--

9 MR. FUJII: Advantages for Option 4. It  
10 essentially, again, eliminates the threat of fire and the  
11 potential spread of disease by -- transmitted by  
12 mosquitoes by removing and covering most of the exposed  
13 tire -- or the rest of the exposed tires. The Board would  
14 not incur liability or expenses for any erosion control  
15 projects.

16 --o0o--

17 MR. FUJII: Disadvantages of Option 4. This  
18 option requires the burial of whole tires which is in  
19 violation of current solid waste law. In order to  
20 implement this option, it may require that the regulations  
21 be revised.

22 --o0o--

23 MR. FUJII: Remediation Option 5. As before,  
24 issue cleanup and abatement order to all sites. Negotiate  
25 with landowners regarding the Board-managed remediation

1 including mitigation measures, such as conventional  
2 erosion control required by the other public agencies and  
3 cost recovery. This option is essentially the same as  
4 Option 1, except that the Board would not pursue cost  
5 recovery from the landowners.

6 --o0o--

7 MR. FUJII: Advantages, the same as Option 1.

8 --o0o--

9 MR. FUJII: Disadvantages, again, as in one of  
10 the previous options, it may be seen as a precedence on  
11 how the Board would deal with the yet-to-be identified  
12 illegal waste tire sites in counties where the property  
13 owners have alleged to have used waste tires as an erosion  
14 control.

15 --o0o--

16 MR. FUJII: The next thing I'd like to discuss  
17 are some of the costs associated with the remediation  
18 options. Staff asked our contractor to conduct a site  
19 investigation at the Sonoma sites and to determine first,  
20 an estimate of the number of tires at each of the sites, a  
21 preliminary cost estimate for the Board-managed  
22 remediation that includes minimal site restoration work, a  
23 cost estimate for the implementation of conventional  
24 erosion control measures at each of the sites, and lastly,  
25 a cost estimate for the implementation of the RCD proposed

1 erosion control measures using some of the tires.

2 --o0o--

3 MR. FUJII: This first table -- it's kind of hard  
4 to see, but it shows a summary of the tire count. And as  
5 you can see, these are for Group 1 sites. The total tire  
6 count for all five of the Group 1 sites is 840,000 tires.  
7 The largest site, the Beebe Family Ranch at 402,000 and  
8 the smallest being the Sears Point at 20,000. It also  
9 shows the cost of the Board-managed remediation with  
10 minimal site restoration. The total cost of the five  
11 Group 1 sites is \$2,065,000. And then for the cost of the  
12 conventional erosion control for each of the five sites, a  
13 cost of \$227,000.

14 --o0o--

15 MR. FUJII: This next slide shows those same  
16 items for the Group 2/3 sites. Again, the total tire  
17 count for these two groups is 209,000. The Board-managed  
18 remediation cost of 300,000, and then conventional erosion  
19 control method of -- well, I take that back. These are  
20 actually separated out. I apologize for that. There's a  
21 subtotal for Group 2 and Group 3. So just for the Group 2  
22 total, 300,000 for the Board managed. And then  
23 conventional erosion control 31,000.

24 And then there are separate costs, as you can see  
25 on this table, for the Group 2 sites; 40,000 for total

1 tire count for the Group 2 sites, 155,000 for  
2 Board-managed remediation, and then 30,000 for the  
3 conventional erosion control.

4 --o0o--

5 MR. FUJII: This next slide shows the total cost  
6 estimate for the Board-managed remediation and  
7 conventional erosion control for all sites. This would be  
8 all in the Group 1, Group 2, Group 3 sites. The total  
9 tire count of 1,089,000; total the cost of Board-managed  
10 remediation, 2.5 million; and then the conventional  
11 erosion control 208,000.

12 --o0o--

13 MR. FUJII: This next slide shows a summary for  
14 the Group 1 sites of the cost for implementing the RCD  
15 erosion control method using waste tires as fill. And the  
16 total cost of \$2.6 million is what it all adds up to.

17 --o0o--

18 MR. FUJII: And if they were to implement these  
19 on the Group 2 and Group 3 sites, this table shows the  
20 total cost for that, for the other sites in Group 2 and 3.  
21 And the Group 2 subtotal is 166,000. And the Group 3  
22 subtotal is 424,000.

23 --o0o--

24 MR. FUJII: And this table shows the total cost  
25 for all groups using the RCD, if the RCD erosion control

1 method were used. The total cost is approximately  
2 3.2 million.

3 --o0o--

4 MR. FUJII: This next slide will indicate -- or  
5 give you an idea of what the estimated Board costs would  
6 be for the Group 1 sites, if you vote for any of those  
7 options. And if you go down this, the total cost of the  
8 Board for Option 1 would be almost 2.3 million. Option 2,  
9 approximately 2 million. Option 3 would be 2 million,  
10 plus some unknown cost of erosion control. Option 4 would  
11 be the option where the landowner would implement their  
12 own erosion control. It would be zero cost to the Board.  
13 And Option 5 would be 2.3 million.

14 --o0o--

15 MR. FUJII: Just some things to consider as  
16 you're reviewing these cost estimate figures. These  
17 figures should be considered preliminary and do not  
18 include the costs associated with obtaining any of the  
19 regulatory permits or complying with the regulatory  
20 requirement of the other agencies. Also it should be  
21 noted that the landowners, the RCD, Sonoma County LEA have  
22 reportedly spent about 1.2 million since 1992 on their  
23 remediation efforts.

24 --o0o--

25 MR. FUJII: Just a few other issues to consider,

1 some other regulatory general issues to consider when  
2 evaluating these options.

3 --o0o--

4 MR. FUJII: First the legal issues. There are  
5 basically three items here, and I will cover the first  
6 bullet. And then we'll go ahead and refer to -- or give  
7 the mic the Steve Levine who will cover the last two  
8 bullets.

9 The first is the tire enforcement process.

10 --o0o--

11 MR. FUJII: Under this process, basically any  
12 person who stores or has over 500 tires on his property is  
13 required to obtain a waste tire facilities permit. If the  
14 operator chooses not to obtain the permit, they must  
15 submit a plan describing how they'll remove the tires from  
16 their site. If they do not submit the plan, the Board  
17 will issue cleanup and abatement order setting deadlines  
18 for penalties for -- operating a waste tire storage  
19 facility without a waste tire facilities permit is a  
20 misdemeanor punishable with a fine of up to \$10,000 a day,  
21 of up to one year in prison in the county jail.

22 --o0o--

23 MR. FUJII: And then I'll let Steve talk about  
24 the last two bullets.

25 --o0o--

1 STAFF COUNSEL LEVINE: Good afternoon.

2 First, I'd like to just very generally go over  
3 the nature of our statutory scheme with respect to tires.  
4 The Integrated Waste Management Act sets civil liability  
5 against parties who accumulate waste tires on land they  
6 own, regardless of how the tires initially arrived on  
7 site. So liability accrues whether the property owner  
8 brought the tires on themselves, whether there was an  
9 illegal dumping on their property by a third party, or  
10 even if they just purchased the property years later after  
11 the tires were brought on and presently own the property.  
12 Obviously, to the extent that other people initially  
13 deposited the tires, they would also be liable. But the  
14 property owner is also liable whether they were active in  
15 it or not.

16 Specifically, the code states that any person who  
17 stores, stockpiles, or accumulates waste tires at a  
18 location for which a waste tire facilities permit is  
19 required shall upon order of the Board clean them up. If  
20 they don't, we do. There's cost recovery. Basically,  
21 property owners even where they were not directly involved  
22 with bringing the tires on site, they are presently  
23 storing more than 500 tires. And when you store more than  
24 500 tires, you need a permit or you need to have them  
25 removed.



1           This requirement does specifically apply to the  
2 owner in our statutes, as owner is defined as the person  
3 who owns in whole or in part the land on which a waste  
4 tire facility is located. There's a bit more on the  
5 strict liability nature in our statutes in, I believe,  
6 Attachment 5 to this item.

7                               --o0o--

8           STAFF COUNSEL LEVINE: On that issue,  
9 environmental regulations, such as our Act, are basically  
10 an alternative method for the Legislature to exercise its  
11 ability to declare certain activities nuisances, per se.  
12 In other words, unlawful regardless of the circumstances  
13 and to impress the strict liability upon the violator.  
14 Strict liability means that the person conducting the  
15 activity is responsible for performing whatever corrective  
16 action is necessary regardless of whether they initially  
17 engage in the activity in good faith. As I said, this  
18 makes no difference whether they were activity involved or  
19 came on separately.

20                               --o0o--

21           STAFF COUNSEL LEVINE: One common element in most  
22 prior waste tire cases that we've handled has been that  
23 the landowners knew or should have known that there could  
24 be legal consequences in accumulating waste tires on their  
25 property. Even before the enactment of our laws, general

1 law held that the accumulation of waste on a property may  
2 be actionable as a nuisance. Not always. You have to  
3 prove it in court. But owners allowing waste tires on  
4 site have long been essentially accepting a risk that  
5 their accumulation of old tires could be considered waste  
6 and could be considered a nuisance if proven in court.

7 --o0o--

8 STAFF COUNSEL LEVINE: Now, the Sonoma County  
9 sites here do present unique circumstance in that waste  
10 tires were brought on site at the recommendation of the  
11 SSSCD. In contrast to the cases where the owners accepted  
12 the risk that their accumulation of tires, which may be  
13 deemed waste, could be deemed a nuisance by the court.  
14 Here, the owners have asserted they were acting under a  
15 color of authority.

16 --o0o--

17 STAFF COUNSEL LEVINE: So this raises the  
18 following questions. What was the authority of the SSSCD  
19 during the period that the tires were brought on site? In  
20 what manner did the SSSCD sanction the use of waste tires  
21 as erosion control? And then to what extent did the tires  
22 brought on site serve as erosion control?

23 --o0o--

24 STAFF COUNSEL LEVINE: In answer to those  
25 questions, I wanted to talk a little bit about the

1 authority of the soil conservation districts. The SSSCD  
2 here is but one of many soil conservation districts  
3 throughout the state and actually through the country that  
4 operated here in California under legislative authority to  
5 this day but including the period in issue, the 1940s to  
6 earlier 80s.

7           The California Legislature in dealing with the  
8 SCDs declared in their statutes the purpose of these  
9 districts was to secure the adoption in this state of  
10 conservation practices best adopted to save the basic  
11 resources and soil of the state, including the prevention  
12 and control of soil erosion and erosion stabilization.  
13 Moreover, these districts, including the SSSCD involved  
14 here, were specifically empowered by the Legislature to  
15 provide technical assistance to private landowners to  
16 support practices that minimize soil and related resource  
17 degradation and to disseminate information relating to  
18 soil conservation and erosion stabilization.

19                               --o0o--

20           STAFF COUNSEL LEVINE: Based on this, the RCD,  
21 which under the present statute is the successor to the  
22 old SCD, has asserted that the old SCD did, indeed,  
23 sanction the use of waste tires as erosion control by  
24 recommending the practice to a number of landowners. The  
25 landowners assert this recommendation makes their

1 situation unique in that, in effect, there are two  
2 legislative mandates at issue from two periods of time  
3 that they are indicating seemingly conflict. On the one  
4 hand, the use of waste tire as erosion control in the past  
5 was undertaken at the recommendation of the SSSCD, the  
6 very entity that the Legislature at the time specifically  
7 declared should weigh in on soil conservation on behalf of  
8 the state.

9           On the other hand, as we all know, the  
10 Legislature has more recently preferred a competing state  
11 interest in limiting waste tires at a site without a  
12 storage permit.

13                               --o0o--

14           STAFF COUNSEL LEVINE: The landowners assert that  
15 in balancing these legislative mandates, the Board should  
16 give credence to the earlier determination by the SSSCD  
17 that essentially deemed the utilization of waste tires as  
18 erosion control -- could be argued a beneficial reuse of  
19 the tires. In other words, a use that used to be just for  
20 automated purposes. It gave it a new use that was also  
21 beneficial.

22           Now, this term is actually a more recent term  
23 that we are using. This concept of beneficial reuse has  
24 been incorporated into our pending tire monofill  
25 regulations but only with respect to proposed prospective

1 uses of waste tires. So once the Board finds that a  
2 proposed reuse of waste tires is beneficial, those tires  
3 would no longer be considered waste. And they have to  
4 support with engineering designs to show that it would be  
5 a beneficial use for the project at issue.

6 Similarly here, the landowners claim since the  
7 SCD recommended the reuse of these tires for erosion  
8 control, supposedly consistent with its Legislative  
9 mandate at the time, those tires should not now be  
10 considered waste in a form that would subject them to cost  
11 recovery. And that should give this Board credence -- the  
12 Board should give credence to these factors in determining  
13 both liability and cost recovery issues.

14 --o0o--

15 STAFF COUNSEL LEVINE: Nevertheless, they have to  
16 deal with the issue of whether, in fact, all of the tires  
17 on the site were utilized in a manner consistent with any  
18 recommendation by the SSSCD. And I believe as addressed  
19 in the item, due to the size and location of the existing  
20 waste tire piles at these sites, there is little dispute  
21 that many of the waste tires are in excess of the amount  
22 needed for erosion control in any event.

23 Even if consideration were to be afforded to the  
24 landowners' theory, they should not be held liable for the  
25 cost associated with tires used as SCD-sanctioned erosion

1 control, these excess tires appear to fall outside such a  
2 position. Thus, if the Board remediates, it will at some  
3 point need to address cost recovery to the extent under  
4 our statute such cost recovery is feasible.

5 In light of these factors, one of the issues  
6 before this Board today is whether the landowners' color  
7 of authority argument should be factored into the cost  
8 recovery process. The Board can consider this matter now  
9 or allow the court to decide the issue at a later time.

10 And at that, I will hand the mic back to Bob.

11 --o0o--

12 MR. FUJII: Let me touch on just a couple of  
13 regulatory issues that may affect the ultimate  
14 Board-managed remediation projects, if they were to be  
15 implemented. A couple of things here. There are, you  
16 know, just the environmental impacts themselves and then  
17 the impact that compliance with the environmental  
18 impacts -- or, in other words, complying with the  
19 requirements or issues raised by the other regulatory  
20 agencies will have on our ability to perform those  
21 remediations. And then CEQA is the last issue I'll touch  
22 on.

23 --o0o--

24 MR. FUJII: The first one is the actual  
25 environmental impacts. There have been a number of

1 regulatory agencies that have raised concerns about our  
2 proposed remediation of the sites and what adverse impacts  
3 they could have. For example, the Regional Board has  
4 testified at some of our hearings that there is a  
5 potential for increased sedimentation sediment loads to  
6 the watershed -- Petaluma River watershed. This could  
7 result in some adverse water quality impacts, as well as  
8 have some adverse impacts to fish and wildlife. So it's  
9 possible that the Regional Board could require us to  
10 mitigate these impacts through an NPDES permit.

11 --o0o--

12 MR. FUJII: Next, in complying with these --  
13 well, let me just say that it's also important to note  
14 that the erosion control problems in the Sonoma area are  
15 not just isolated to where the tires are located. This is  
16 a problem that seems to be ubiquitous to that area. So to  
17 date, the Regional Board has now required that the  
18 landowners submitting applications for NPDES permits for  
19 compliance with their erosion control issues at this  
20 point. There are two endangered species that have been  
21 identified in the area, the red-legged frog and the tiger  
22 salamander. This will likely be necessary for us to  
23 consult and likely comply with the requirements of the  
24 Department of Fish and Game and the U.S. Fish and Wildlife  
25 Service as well.

1                               --o0o--

2               MR. FUJII: In terms of impacts for complying  
3 with these regulatory issues, they will likely impede our  
4 ability to remove the tires because we'll have certainly  
5 more requirements needed that we need to satisfy at  
6 additional cost to us, and also take a little more time.

7               Also important to note that the property owners  
8 are responsible for the condition on their land. Even if  
9 the Board conducts the cleanup project, we are under no  
10 statutory or regulatory obligation to ensure that any  
11 erosion control projects are constructed.

12                              --o0o--

13              MR. FUJII: And then lastly, CEQA for this  
14 particular segment. CEQA requirements for Board-managed  
15 remediation projects are typically met through Notice of  
16 Exemption filed by the Board as a lead agency. There will  
17 also need to be lead agency responsibility for compliance  
18 with any erosion control projects. At this point that  
19 lead agency has not been determined.

20                              --o0o--

21              MR. FUJII: And then some important general  
22 issues. The Board may already be aware of these, but just  
23 to kind of stress the point. Standing water in tire piles  
24 do provide a good breeding ground for mosquitoes. As a  
25 result, there is now a West Nile Virus threat. And also



1 tire fires. We have had three major tire fires in this  
2 state. So it's important to remediate those tires as soon  
3 as possible to -- you know, to prevent a disaster from  
4 happening in Sonoma County as well.

5 --o0o--

6 MR. FUJII: And finally, Board's recommendations.  
7 For the Group 1 sites, staff is recommending that the  
8 Board select Option 2, issue cleanup and abatement orders  
9 to all sites. Negotiate with the landowners regarding a  
10 Board-managed remediation limited to tire removal and  
11 pursue cost recovery.

12 For Group 2 sites, staff is recommending that the  
13 Board pursue enforcement action against the owner of the  
14 Ahlgrim site.

15 And for the Group 3 sites, staff would seek  
16 direction from the Board on how to proceed and some future  
17 actions there.

18 That basically concludes my presentation. In  
19 addition to staff, our contractors are available to answer  
20 questions regarding any erosion control issues or cost  
21 information if the Board needed that information as well.  
22 With that, are there any questions?

23 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
24 Mr. Fujii.

25 Any Board questions before we go to public

1 comments?

2 Ms. Peace.

3 BOARD MEMBER PEACE: I just have a question on  
4 the different erosion control methods. There's the  
5 conventional erosion control method, and there's the RCD  
6 erosion control method. And the amounts are way  
7 different. On the one hand, on the conventional erosion,  
8 where did we come up with that figure?

9 MR. FUJII: I'll go ahead and defer to our  
10 contractors on this, and they'll probably be able to  
11 answer our questions better than I.

12 MR. BAILEY: Good afternoon. The two figures  
13 are --

14 CHAIRPERSON MOULTON-PATTERSON: Could you state  
15 your name for the record.

16 MR. BAILEY: I'm King Bailey with Sukut  
17 Construction. I'm your contractor.

18 The conventional erosion control is the purchase  
19 of material needed to provide an industry standard erosion  
20 control. It's simply the materials and the placement of  
21 the materials. That's after the tires have been removed.  
22 The RCD method is, again, a proposed plan by the RCD to  
23 bury the tires on site, import shedded tires, import soil,  
24 and do some cover. That's where that comes,  
25 engineering-wise, such a great discrepancy on there, is

1 everything has to be brought into the site.

2 BOARD MEMBER PEACE: There's a big difference  
3 there.

4 MR. BAILEY: Very big.

5 BOARD MEMBER PEACE: If they did the conventional  
6 erosion control method, is this going to be to the  
7 satisfaction of the Water Board?

8 MR. BAILEY: I'd like to turn it over right now.  
9 We have a little PowerPoint we could look at as far as  
10 what we can use as far as our conventional erosion control  
11 measures.

12 (Thereupon an overhead presentation was  
13 presented as follows.)

14 MR. CREA: Good afternoon. My name is Joseph  
15 Crea with AEI CASC Engineering.

16 The conventional practices that we're dealing  
17 with are two fold. One for erosion control to stabilize  
18 the area where the tires are going to be removed. And as  
19 a backup control, we will have sediment control measures  
20 that are used as well.

21 The first method you're looking at, which is  
22 considered a best management practice -- all of these that  
23 I'm going to be talking about are considered best  
24 management practices, the types of erosion and sediment  
25 control devices or practices that you will do to ensure

1 that you minimize or eliminate the threat of erosion and  
2 the resulting sedimentation.

3           The first frame we're looking at here is an  
4 example of slope stabilization with turf reinforcement  
5 matting, otherwise known as erosion control matting, made  
6 out of anything from fibers to coconut material or even to  
7 synthetic material that is laid over the slope to prevent  
8 the detachment of the soil particles by raindrop impact.  
9 And it also -- if you look to the left of the slide,  
10 that's an area that has been previously matted. The  
11 vegetation has taken over and is being kept in place --  
12 held in place by the erosion control matting itself.

13                               --000--

14           MR. CREA: Flow control. Obviously, water and  
15 form of runoff is one of the main concerns when it comes  
16 to erosion. And this can be simple installation of  
17 structures to bring water from one area to another in a  
18 safe and sound manner. Or grading practices, benching  
19 your slopes or terracing the slope to break up the slope  
20 length and steepness. Also the addition of rip rap or  
21 rock that you see, which serves as an energy dissipater  
22 for the velocity of the water once it's discharged from a  
23 channel or a pipe.

24                               --o0o--

25           MR. CREA: This picture really isn't -- this is

1 just giving an example of some of the sediment control  
2 devices. But I, myself, wouldn't promote this on an  
3 erosion control and sediment control plan. But just to  
4 give you an idea, hay bales are used as sediment control  
5 on level areas or within broad soils to serve as check  
6 dams. And the way you see them aligned is the way they  
7 would be placed. But they would be staked in, and they  
8 wouldn't be put in an area where there's concentrated  
9 flow.

10 To the left you're seeing the black sill fence,  
11 which is commonly seen on a lot of construction projects.  
12 That's also installed on a level slope. This right there  
13 is at the bottom of what appears to be a soil stockpile.  
14 And that prevents the sediment from washing away and  
15 getting into a receiving water course or pipe, as you can  
16 see up in the background.

17 To the right, with proper installation what you  
18 see on that slope would be waddles, which is basically a  
19 new age hay bale that's hay or clean rice straw, when it  
20 comes to biological concern for endangered species,  
21 stuffed into netting that will eventually biodegrade over  
22 a period of time. And that there is basically helping --  
23 if it's installed and imbedded properly and staked in, it  
24 breaks up the flow coming down the slope.

25 By the way, these pictures I'm going over with

1 you can be somewhat indicative of the site condition we  
2 would be dealing with on some of the tires sites as its  
3 sloping areas, has very large water -- some of them have  
4 very big watersheds and are subject to concentrated or  
5 channelized flow.

6 --o0o--

7 MR. CREA: Here's another picture of erosion  
8 control blankets used in a channel situation not just  
9 steep slopes. The channel banks -- and depending on  
10 velocity and other engineering concerns such as sheer  
11 stress, this is used to align the channel banks and the  
12 channel bottom. As you can see, the picture below, when  
13 you want vegetation to become established, that's  
14 basically what it's used for. It's not for engineering  
15 control. If you have sluffing or slumps, there's other  
16 practices for that. And there's also different types of  
17 matting that's used, depending on velocity and sheer  
18 stress.

19 --o0o--

20 MR. CREA: This is just an example -- this is  
21 very conceptual at this time -- of what a typical  
22 revegetation mix that would be used. Obviously a concern  
23 over invasive species in California is very critical. So  
24 what would be used are some annual grasses which will come  
25 up fairly quickly depending on your weather conditions,

1 and then eventually your vetches and clovers which will be  
2 your long-term cover that will take over in the long run,  
3 as well as the wild flowers.

4 --o0o--

5 MR. CREA: This is just an example of a seed mix  
6 that has been used to stabilize an embankment.

7 --o0o--

8 MR. CREA: And one other practice, other than  
9 just the installation of these erosion and sediment  
10 controls, is proper grading practices to minimize the  
11 erosion and sedimentation impacts and also can fall into  
12 an engineering standpoint. Some of these slopes that are  
13 very steep and experiencing problems with sluffing or any  
14 other engineering failures could be graded back to a less  
15 steeper slope to minimize accelerated erosion as well as  
16 the engineering problems.

17 And that's it.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you. Was  
19 that it, Ms. Peace.

20 DEPUTY DIRECTOR LEE: Ms. Peace, for further  
21 clarification on the point one. Of the reasons why the  
22 conventional erosion control is relatively inexpensive  
23 compared to the other, again, is that we will have as part  
24 of the tire remediation effort equipment on site that can  
25 implement these practices, you know, almost concurrently

1 with removal of tires from a particular section. They'll  
2 be there to do the grading, installation of erosion  
3 control right then. That helps minimize a lot of the  
4 expenses that might otherwise occur if you had to mobilize  
5 equipment in a separate effort.

6 BOARD MEMBER PEACE: Do we know this conventional  
7 erosion control method will be appropriate according to  
8 the Water Board? Have they -- will we run this by the  
9 Water Board when it comes time to decide what we're going  
10 to do so we know this is all that the Water Board would  
11 require?

12 STAFF COUNSEL LEVINE: Steve Levine. I would  
13 presume in getting any permits needed for the Water Board  
14 to do the tire removal project, they would be seeking  
15 information about what the erosion control measure would  
16 be prior to giving that permit. And therefore, we would  
17 have gotten the okay ahead of time. And as Jim is  
18 mentioning on this, these costs may not be indicative of  
19 what the cost would be if the landowners separately were  
20 to handle erosion control themselves because obviously  
21 they wouldn't be necessarily using the manning equipment  
22 we have on site.

23 DEPUTY DIRECTOR LEE: I think also -- Joel Crea  
24 is the acknowledged soil erosion expert we have affiliated  
25 with Sukut. But the practices he's outlined are standard



1 in the industry, you know, for dealing with erosion  
2 control problems. And certainly, these are the types of  
3 practices that the Regional Board would be looking to see  
4 installed to address an erosion control problem.  
5 Certainly they would not be recommending its use of tires  
6 for this purpose. I think that what they're saying now  
7 with regards to the existing tire piles is -- I think  
8 probably a better way to interpret their likely response  
9 is that if tires are to be removed, they would want to see  
10 some concurrent erosion control effort to minimize the  
11 impact of any erosion. And that's, indeed, a part of many  
12 of those plans.

13 MR. CREA: Ms. Peace, one other thing to add on.  
14 All of these erosion and sediment controls are fully  
15 endorsed by the CalTrans best management practice manual  
16 and also the California Storm Water Quality Association  
17 manual. These are common practices that are used.

18 BOARD MEMBER PEACE: Thank you.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you. We  
20 have no other questions, I'd like to get to our public  
21 comments. Leandra Swent, South Sonoma RCD.

22 MS. SWENT: Good afternoon. And thank you for  
23 all your time and energy that the Board has put into this  
24 and staff has put into this. And I'm hoping we can  
25 finally come to some realization of an agreement here.

1 I do want to sort of respond to some of the  
2 things that staff has brought forward today just to  
3 clarify a few issues. Number one, we did -- the  
4 landowners did receive a letter from Regional Water  
5 Quality Control Board that was in direct conflict with  
6 the letter from your agency saying they wanted the tires  
7 to stay in. And that's put the landowners kind of between  
8 a rock and a hard place. I think you've seen copies of  
9 the letter. It's in the packet I sent all of you in the  
10 past. But basically their concern is that the Petaluma  
11 River is also already listed. It's a 303d listing for  
12 impairment for sedimentation. And all of these sites do  
13 eventually feed into the Petaluma River. So that's their  
14 concern.

15 Probably the most important thing for me to  
16 address at the moment -- and you will probably have other  
17 questions -- is the issue about why our costs are so much  
18 different than your contractors would be if the RCD were  
19 to do the complete restoration. One thing -- and I've  
20 talked with -- I did talk with King Bailey about this.  
21 There is no cost included in that \$227,000 for permitting,  
22 for design, for any kind of CEQA work that needs to be  
23 done. And the erosion control methods that they are  
24 talking about would work on some of the sites, but like  
25 the Beebe Family Ranch site, which is one of the largest,

1 is a blue line stream, and the conventional erosion  
2 control measures of that sort would not work there. They  
3 would need to be much more biologically acceptable to the  
4 Regional Water Quality Control Board.

5           Their new sort of stand on that kind of erosion  
6 control work is that it needs to be much more natural and  
7 they don't allow rock in those most of those areas  
8 anymore. They would want to see trees planted in the  
9 area. We would need to have a biologist on site at all  
10 times wherever there's an endangered species to make sure  
11 the endangered species was not threatened.

12           The costs are extremely different at each site,  
13 albeit some of them will be easier than the other ones to  
14 conclude -- or to do.

15           The other thing I do want to reiterate is that --  
16 and I think you heard that from your legal counsel -- that  
17 these landowners did work under what they say is a color  
18 of authority. We call it a good faith effort. They put  
19 the tires there as a recommendation by our agency, which  
20 is very confusing. One of the other speakers is going to  
21 sort of try to clarify what the difference between our  
22 agency is and the federal agency who is our sister agency  
23 who is a natural resources conservation service now and  
24 used to be the soil conservation service. It's a very  
25 confusing relationship we have. But that soil

1 conservation service is actually a federal agency that is  
2 still over us and has jurisdiction throughout the state of  
3 California. So we'll try to explain that later.

4 I think that's all I want to say right now,  
5 unless anybody has any questions for me.

6 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington  
7 followed by Mr. Paparian.

8 BOARD MEMBER WASHINGTON: In terms of the agency  
9 you just talked about, do you have any paperwork or any  
10 documentation that says, "We allow you guys to put these  
11 tires in these sites"?

12 MS. SWENT: We have looked extensively for that  
13 and never been able to find anything that's written down.  
14 It was a verbal recommendation at that point in time. And  
15 things were a little looser in that day, back in the 40s  
16 and 60s about how people related to the landowners. And  
17 most of our relationship was we were out on the land with  
18 the agricultural owner talking to them. And designs were  
19 made on a napkin kind of thing. And it was a lot less  
20 paperwork-oriented than it is now.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 Mr. Paparian.

23 BOARD MEMBER PAPARIAN: Could you walk me through  
24 your understanding of how it would work. Presumably a  
25 landowner at some point realized they had an erosion

1 problem. Then what would they do? They would --

2 MS. SWENT: What happened in these -- most of  
3 these instances were -- and this is why it gets kind of  
4 confusing. Some of the landowners were actually on the  
5 Resource Conservation District Board at the time. And the  
6 boards are made up of local landowners who are typically  
7 in agriculture. That's been the standard over the years.  
8 And those landowners had no staff. They were a board of  
9 five or seven people who then responded to the federal  
10 agency with what their needs were locally. And that  
11 federal agency was the Soil Conservation Service at that  
12 time, a USDA agency. And they would meet once a month and  
13 talk about what the landowners needed.

14 And how this originally came up I don't know, how  
15 the original idea was formulated. But a number of the  
16 people were on board with the RCD, and they discussed it  
17 at that time. It became one of the landowners,  
18 Mr. Silacci's father, I believe, or maybe grandfather, was  
19 on our board and he understood this worked. He had a  
20 couple times tried to stop the erosion on his property by  
21 doing conventional methods at that time. It didn't work.  
22 He then finally came to the RCD and said, "I understand  
23 there's this way I can get tires to stop the erosion."  
24 That's how that happened. And when his neighbors saw it  
25 and what was happening in this area, other people saw it

1 and decided it was a good idea.

2 BOARD MEMBER PAPARIAN: Would the RCD say, "Go  
3 out and put a bunch of tires there," or would they say, do  
4 it in this way," or do they say -- was it just that tires  
5 seem like a good idea to go pile a bunch of them? Or was  
6 it, "You ought to run them up the slopes a little bit, a  
7 couple layers deep."

8 MS. SWENT: Having not been there at that time,  
9 it's hard for me to say. When Paul Sheffer gets up, he  
10 was actually there at the time. He may be able to answer  
11 the question for you better than I can.

12 BOARD MEMBER PAPARIAN: So the landowner somehow  
13 gets the information that the tires would be a good idea  
14 for erosion control. What do they do next? Do they call  
15 up somebody to bring the tires? How did that work?

16 MS. SWENT: Once again, I don't know what the  
17 actual transmission was of communication at that time.  
18 But I know there were haulers coming out of San Francisco  
19 that were sometimes -- one of them was supposedly a single  
20 mother on the weekends -- she owned a dump truck, making  
21 extra money to support her kids. And she just made dump  
22 runs all weekend long with her truck from San Francisco up  
23 to Sonoma County. So some of the other haulers -- I don't  
24 know. Again, maybe Mr. Sheffer can answer that question  
25 better for you.

1 BOARD MEMBER PAPARIAN: Were the haulers  
2 soliciting this business?

3 MS. SWENT: I believe they were. Once it got  
4 sort of established, I believe the haulers did then  
5 solicit that business.

6 BOARD MEMBER PAPARIAN: So they would go up and  
7 say, "We've got a whole bunch of tires. Your local  
8 landowners are using them for erosion control. How about  
9 if we bring some and give them to you for erosion  
10 control?"

11 MS. SWENT: I suspect that happened. I wouldn't  
12 guarantee it, but I suspect that was happening at that  
13 point.

14 BOARD MEMBER PAPARIAN: Okay. Thanks. And I  
15 guess the other witness may answer some of the questions  
16 how it all worked.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 Richard Idell appearing for Universal portfolio.

19 MR. IDELL: Good afternoon. My name is Richard  
20 Idell. I'm a lawyer. I represent Universal Portfolio  
21 which is listed -- can you hear me? Is this on? Which is  
22 listed in your materials as North American Universal  
23 Portfolio. The name of the company actually is Universal  
24 Portfolio Limited.

25 We very much appreciate the work that's gone into

1 this report. I think we made some tremendous strides from  
2 the workshops that were held last year. And our goal is  
3 to try and solve the problem. My client is fairly unique  
4 among this group in that we've only owned the land since  
5 the mid-90s. And when the company bought the property,  
6 they were told that there were 75,000 tires there, and the  
7 company took out 75,000 tires. And there were still more  
8 tires. And we took out another 50,000 tires, and there  
9 were still more tires. So we've really -- we did what we  
10 thought we were probably going to be obligated to do.

11 And beyond that, when we bought the land, we were  
12 told that there was an agreement with the county to take  
13 out the tires at \$5,000 a year. But we wanted them out of  
14 there. So we went ahead and took out the 75,000 tires and  
15 thought we had complied through 2020. But there's still  
16 more tires. The tires were brought in there for erosion  
17 control, as you've heard. We weren't there. But the way  
18 the statute is written, we're kind of stuck with the  
19 problem.

20 We have seen the recommendation of the staff for  
21 Option Number 2. And of all the options, we view Options  
22 2 and 3 as really the most palatable options for the  
23 landowners. But we would encourage you to look at some of  
24 the real advantages and attributes of Option 3 and try to  
25 reach a solution here that gives the landowners and you



1 the best of all possible worlds.

2           There's a lot of precedent in the underground  
3 tank field for assisting landowners in removing  
4 underground storage tanks. This body hasn't gone that  
5 far, it hasn't developed this far. But I can see in the  
6 future some sort of grant process that would certainly  
7 ease this process along because there's tremendous cost  
8 involved in removing the tires. And for those landowners,  
9 like these landowners, that have come forward and want to  
10 remove the tires, like my clients who thought they had  
11 removed all the tires that were supposed to be there, it's  
12 important there be an alternative short of just flat out  
13 saying, "We want the money back for this cost recovery."

14           So I would encourage you -- and some of the other  
15 speakers will speak to this. And after some discussion  
16 we're going to make a recommendation to you about some  
17 very minor changes to your proposed resolution we think  
18 will address this issue. But we really encourage you to  
19 look at the best parts of both Option 2 and Option 3.

20           And if you have any questions, I'd be happy to  
21 answer them.

22           CHAIRPERSON MOULTON-PATTERSON: Thank you.

23           Any questions right now?

24           BOARD MEMBER WASHINGTON: Yeah. I just have one.

25           CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

1 BOARD MEMBER WASHINGTON: When you guys went off  
2 and got the 75,000 tires, I believe, did anyone go out  
3 there to check to see if there was any more tires  
4 because --

5 MR. IDELL: When you say "anybody," what do you  
6 mean?

7 BOARD MEMBER WASHINGTON: From the North  
8 America --

9 MR. IDELL: Oh, you mean when we -- after we took  
10 them out?

11 BOARD MEMBER WASHINGTON: Yeah. You said you  
12 removed 75,000 tires, and then you had to go back and  
13 remove more tires.

14 MR. IDELL: Yeah. Because when you take the  
15 first layer off, it's an endless pit. To this day we  
16 don't know --

17 BOARD MEMBER WASHINGTON: So the 75,000 tires,  
18 you saw more tires under those?

19 MR. IDELL: Not until we took them out.

20 BOARD MEMBER WASHINGTON: That's what I mean.

21 MR. IDELL: We had no reason to believe there was  
22 anything more there than what the seller told us was  
23 there.

24 BOARD MEMBER WASHINGTON: Which was 75,000. But  
25 when you removed the 75,000, you saw more?

1 MR. IDELL: Right. And then we took out another  
2 50,000 or so. Took out 115 total. So another 30-, 40,000  
3 tires. And then we realized that, you know, we may be at  
4 the tip of the iceberg. There may be more. I mean, your  
5 staff has their own estimates about what's there. I think  
6 the figure is 175,000 or something. I'm not sure exactly  
7 what it is.

8 But the point I was trying to make to you is, we  
9 consider ourselves to be responsible landowners, and we  
10 bought the land. We thought it was a 75,000 tire problem  
11 that -- for which there was an agreement with the county  
12 to take them out at 5,000 a year. We didn't want to wait  
13 15 years -- or whatever it is, you know, 5,000 a year.

14 BOARD MEMBER WASHINGTON: To remove the tires,  
15 you were under the impression it was just the 75,000 that  
16 was at issue?

17 MR. IDELL: Right. And we took them out. We  
18 still have a problem that we have to solve. We're trying  
19 to work what we consider to be an effort on your part to  
20 come forward with some proposals that work. What we would  
21 like in return is some cooperation in trying to find a  
22 solution for cost recovery. I mean, we've already spent  
23 several hundred thousand dollars removing these tires.  
24 So, you know, there are moneys available. We want to try  
25 to find a solution that benefits all these landowners.

1 But in our case, we've spent a great deal of money  
2 already.

3 BOARD MEMBER WASHINGTON: That's why we're here  
4 today, to come up with that same solution for you guys.

5 CHAIRPERSON MOULTON-PATTERSON: Just one moment.  
6 Mr. Paparian had a quick question for you.

7 BOARD MEMBER PAPARIAN: Any idea at all how the  
8 prior landowner came up with the 75,000 figure?

9 MR. IDELL: I don't know.

10 CHAIRPERSON MOULTON-PATTERSON: Ms. Swent, did  
11 you want to come to answer that question?

12 MS. SWENT: That was actually not an estimate by  
13 the landowner. It was an estimate by the Sonoma County  
14 local enforcement agent at that time.

15 BOARD MEMBER PAPARIAN: They just did an eyeball  
16 estimate?

17 MS. SWENT: They had an agreement the landowner  
18 would take out 5,000 tires a year until they were all  
19 gone.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you. Thank  
21 you, Mr. Idell.

22 Gary Giacomini, representing Sears Point.

23 MR. GIACOMINI: Madam Chair, members of the  
24 Board, Gary Giacomini, as the Chair said, representing  
25 Infinion, historically Sears Point. I'll call it Sears

1 Point always.

2 I want to echo the comments that have been made  
3 in complimenting the staff. This is an incredibly  
4 complicated situation. These are not, in my view, the  
5 typical scofulas that tried to pull a fast one. They  
6 earnestly believed and they were counseled by the people  
7 they turned to in the 40s, 50s, 60s that this was an  
8 appropriate solution. I'm really quite delighted with the  
9 understanding that your staff has developed about all  
10 these complexities and the series of recommendations I  
11 think are extremely promising.

12 I urge you to consider, as Mr. Idell did -- let  
13 me tell you our situation. Sears Point removes 6 or  
14 700,000 tires thinking every day, every month they were  
15 getting all of them. We think there's about 20,000 left.  
16 But we, likewise, spend 6- or \$700,000 doing that. So  
17 please understand we're not trying to be scufoles either.  
18 We want to get this resolved.

19 Our dilemma is, as your staff has indicated, the  
20 conflicting postures by many of the agencies. Water  
21 Quality is going to slap a suit on us if we remove one  
22 more tire. Why? Because there's red legged frogs running  
23 all over the place, et cetera. And I think through the  
24 various hearings you've had, you've seen how complicated  
25 it is with -- there were eight agencies, as I recall, that

1 testified that the solution is not to remove all the  
2 tires. And in fact, many of the agencies said they would  
3 enjoin us from so doing.

4 That's why I want to move to my suggestion of  
5 serious consideration of a blend of your Option 2 and 3.  
6 I don't know any entity there is other than the RCD that  
7 has -- is as equipped as it is in dealing with all that  
8 plethora of agencies. If there's anybody, any agency that  
9 can get a negative dec or a modified negative declaration  
10 from Water Quality et cetera, I really commend you it will  
11 be the RCD who has worked with all of these agencies,  
12 state, federal, et cetera, on this problem for many, many  
13 years. And so that's why I encourage some inclusion of  
14 Option 3 in which they become a very important factor, a  
15 lead agency. They have the relationship with all of the  
16 landowners. They have, I think, developed a very good  
17 relationship with you and with your staff. And they,  
18 important for you, they have a huge relationship with  
19 these eight or nine state and federal agencies that are  
20 going to be in the mix, no matter what we do.

21 I would say if you go it alone, you're going to  
22 be in hell for many, many years before you get the  
23 necessary permits. Because I don't think that you know  
24 where -- or your staff knows all of the intricacies of the  
25 players, et cetera, and how strongly held their views are

1 that the monolithic solution of taking all the tires out  
2 is not only the best solution, that it's the worst  
3 solution in some of these cases.

4 What you have, as your staff I think has  
5 articulated, you have to look at every one of these sites  
6 on a case-by-case basis, carefully and thoughtfully, and a  
7 solution for each one has to be developed to engender the  
8 favorable responses from the state and federal agencies  
9 that we all need to move forward together.

10 So that's what I urge. And as Mr. Idell said, in  
11 the event you entertain a blend of 2 and 3, we would have  
12 a suggestion for very tiny language, just a phrase or two,  
13 in your proposed resolution in which all of the landowners  
14 would be satisfied. And I think that would be quite an  
15 accomplishment for you to have achieved. And we are  
16 incredibly grateful, as I say, for the enormous efforts  
17 you've put in in coming to understand the nuances of this  
18 situation. We all want to move forward to a solution.  
19 It's just the solution is going to be varied, and you have  
20 other players that need to sign off on it. And we would  
21 love to help you get that sign off.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
23 Mr. Giacomini.

24 Mr. Jones, did you have a question of  
25 Mr. Giacomini.

1           BOARD MEMBER JONES: I find it interesting that  
2 the push to have RCD as lead agency as the only one that  
3 can deal with all of these nine agencies that showed up at  
4 our hearing and are also the same ones that, according to  
5 your testimony, would enjoin you in an action against us.  
6 That sounds like something that I'm not very good at  
7 accepting. You know, when you want to bring in all the  
8 other agencies to make an issue harder than it needs to  
9 be, sometimes there's a price to pay for that.

10           MR. GIACOMINI: We did not bring in those other  
11 agencies. We did not bring in those other agencies.

12           BOARD MEMBER JONES: Whatever. You made it  
13 pretty clear in your testimony they would be willing to  
14 enjoin you against us, at the same time you're asking us  
15 to help you clean up these tire piles. I have a hard time  
16 with somebody trying to hold a gun to my head. I'm just  
17 letting you know that. Because I'm willing to work with  
18 this group, but I'm not willing to work with it under any  
19 kind of a threat.

20           MR. GIACOMINI: Well, my apologies. The last  
21 thing I was trying to do was threaten you with anything.  
22 We have received letters that I hope you have copies of  
23 from these other agencies saying they will not allow these  
24 landowners to remove the tires. I'm just stating a fact.  
25 I'm really sorry if you took that as a threat. I did not



1 write those letters. And believe me, the landowners hated  
2 it when they receive letters from Water Quality saying  
3 just the opposite that you were saying. We did not invite  
4 those letters. So if you took what I said as a threat,  
5 I'm really sorry because it was a catastrophe for us to  
6 get these conflicting orders. So I'm not bringing that as  
7 any threat.

8 CHAIRPERSON MOULTON-PATTERSON: Thanks,  
9 Ms. Giacomini.

10 Karen Gerbosi. After this one, we going to take  
11 a five-minute break.

12 MS. GERBOSI: Hello. I'm Karen Gerbosi. I'm one  
13 of the landowners in Sonoma County. And very briefly what  
14 I just wanted to say is I wanted to thank the Board and  
15 their staff, that we appreciate both the work that  
16 everybody did and the outcome as well. I think it's  
17 actually -- I'm somewhere in the arena of being pleasantly  
18 surprised at this point. I never thought they were going  
19 to get to the point where we could actually envision some  
20 action was going to occur on these tires.

21 So in general terms, for our part for the Beebe  
22 Family Ranch, we embrace Option 2 as staff recommended,  
23 and at the same time we can see some benefits of some of  
24 the aspects of Option 3, particularly with the  
25 availability of grants and like that.

1 I wanted to just clarify in some of the language  
2 today, sometimes it says that -- it's stated that cost  
3 recovery will be pursued. And sometimes -- as stated on  
4 Option 2. And sometimes the statement is negotiated cost  
5 recovery. My understanding with Option 2, it is a  
6 negotiated cost recovery. And in fact, most of the  
7 aspects of the option include a lot of negotiation and a  
8 lot of interaction with the landowners and those that  
9 represent the Board in this matter.

10 And then the last thing I would just like to  
11 mention is that we have -- and I think it's mentioned in  
12 this document that was prepared by staff that we, the  
13 Beebe Family Ranch, have pursued having an engineering  
14 firm work with us to come up with a project description.  
15 We've also done a survey of the thing, and that we are in  
16 the process of getting a wetland delineation and the bio  
17 survey for our property. So I just wanted to report on  
18 that.

19 And the other thing is actually with regard to --  
20 Mr. Paparian had the question about how did it come. Did  
21 some tire angel show up with tires one day? My father was  
22 on the Petaluma Cooperative Creamery Board. He was on the  
23 Farm Bureau Board, and he was on the Board of the Petaluma  
24 Horseback Riding Club. And I'm sure that somewhere in  
25 that morass of people -- he contacted people. He spoke

1 with people that said, you know, "Clint, this is a good  
2 thing to do to fix your erosion." He probably mentioned  
3 problems he had. And this is the kind of thing that they  
4 talked about at the cafe and over cups of coffee and on  
5 the backs of their pickup trucks. I don't think there was  
6 ever any formal document that my father had that said,  
7 "Dear Mr. Beebe, do this or do that." It was probably a  
8 very informal arrangement that was come to.

9 So is there any questions?

10 CHAIRPERSON MOULTON-PATTERSON: Thank you. Thank  
11 you. I don't see any questions.

12 Right now we will take a five-minute break.

13 And I want to apologize. I have to leave very  
14 briefly for a mandatory budget meeting that the Governor  
15 has called. But our Vice Chair, Mr. Jose Medina, who is  
16 Chair of the Special Waste Committee, is going to be  
17 taking over. And I will be back.

18 But thank you. So we're going to just take a  
19 five-minute break right now.

20 (Thereupon a recess was taken.)

21 BOARD MEMBER MEDINA: I have three speaker slips  
22 in my hand. Are there any speakers present? I have  
23 Ernest Briggs, Joe Pozzi, Paul Sheffer. We're going to  
24 hear these three speakers after we first get a report on  
25 the ex partes. We'll do some further question and

1 discussion, and then we're going to go into a closed  
2 session to wrap up any legal issues that may remain. And  
3 by that time, our Chair may be back from her meeting so we  
4 can move this along to some conclusion.

5 So at this point I'd like to call up Ernest  
6 Briggs.

7 Ex partes first. Steve.

8 BOARD MEMBER JONES: John Cupps.

9 BOARD MEMBER PEACE: I have none.

10 BOARD MEMBER MEDINA: I have none.

11 BOARD MEMBER PAPARIAN: I spoke with Mr. -- about  
12 this current agenda item, Mr. Don Silacci, and had some  
13 further conversation with Ms. Swent, Mr. Giacomini, and  
14 Mr. Idell.

15 BOARD MEMBER MEDINA: Board Member Washington,  
16 any ex partes?

17 BOARD MEMBER WASHINGTON: I have none.

18 BOARD MEMBER MEDINA: Very good. With that we'll  
19 proceed with Ernest Briggs.

20 MR. BRIGGS: All right. Thank you very much, and  
21 I want to thank the Board and all the staff for all their  
22 help. I know it says on there that Valley Ford property  
23 was not cooperative. I feel bad about that. I apologize  
24 for that. There's a history behind that. And I don't  
25 think I want to go into it at this time.

1           The other thing, I read over your staff report.  
2 And I do feel that the Number 2 and Number 3 is workable  
3 for the landowners. My father, Edward Briggs, was on the  
4 Board of the Gold Ridge Soil Conservation District for  
5 over 30 years. My brother-in-law, the ranch we're on,  
6 Valley Ford, was also a director on the Gold Ridge Soil  
7 Conservation Service. I was also employed by the Soil  
8 Conservation Service for some years, myself. So I have a  
9 little history about what's going on as far as the  
10 landowners are concerned, and the erosion.

11           The erosion was terrible, believe me. We're  
12 landowners. We don't want to see our property pushed  
13 away. We tried everything to stop this erosion ourselves.  
14 Each one of you realize what it would cost to haul back a  
15 ton of soil that we lost? It would cost a considerable  
16 amount of money. We don't want this to happen. It lowers  
17 our productivity. We just don't want it to happen. So we  
18 were open for all kinds of things. We tried grass. We  
19 tried blackberries. We tried willow trees. We tried just  
20 about anything you can think of, rock.

21           My son and I in the last year or so have hauled  
22 in over 40 loads of rock, big boulders, ourselves to help  
23 stop this. We spent \$25,000 a few years back building  
24 ponds, building cattle crossings. So I want you to know  
25 that we are trying to be very responsible for what's going

1 on.

2 And that's all I have to say. And I want to  
3 thank everyone for your help.

4 BOARD MEMBER MEDINA: Thank you, Mr. Briggs. Any  
5 questions of Mr. Briggs? If not, we'll move on to the  
6 next speaker, and that's Joe Pozzi.

7 MR. POZZI: Thank you, Mr. Chairman. I again  
8 want to thank all of you for your efforts to hopefully  
9 bring this to a conclusion. There's been a lot of people  
10 spent many, many hours over this situation, and it's very  
11 concerning to the landowners. And they're looking for  
12 some direction from you also.

13 I'm here representing the Gold Ridge Resource  
14 Conservation District which there's been some confusion  
15 maybe on where they stand or where it's at. This started  
16 with all of the sites being in one group, and that's where  
17 it was for quite some time. But the two sites in the Gold  
18 Ridge District were somewhat separated. But I just wanted  
19 to say and to clarify those two sites definitely want to  
20 be involved in the program with this decision and want to  
21 cooperate with you in order to come to some conclusion  
22 with the sites on their properties.

23 The Gold Ridge Resource Conservation District  
24 borders the Southern Sonoma County RCD. And again,  
25 there's three RCD districts within Sonoma County, and

1 they're encompassed by the Soil Conservation Service. And  
2 that's, again, a little confusion as far as how it's all  
3 laid out up there. But they are all in the same area.  
4 They just operate under different boards.

5 I also want to stress the fact that the Gold  
6 Ridge Resource Conservation District, along with the Soil  
7 Conservation Service over the previous years did recommend  
8 that tires would be a suitable way to prevent erosion and  
9 to control the erosion on these properties. And as a  
10 landowner, Ernie just mentioned, bringing in a load of  
11 rock was a tremendous amount of cost. And here was  
12 another option that technical support staffs were  
13 recommending for landowners who were financially  
14 challenged in the economic times as it was to prevent the  
15 erosion on their properties. It was all done in good  
16 faith and all done in a way to, again, do it in a cost  
17 effective manner.

18 So I just mainly wanted to reiterate that these  
19 sites in the Gold Ridge District are, again -- want to be  
20 and would like to be included into the program. We also  
21 feel that the Options Number 2 and 3 are feasible and  
22 doable for the landowners. Again, cost is a tremendous  
23 burden on the whole package here. So we're looking for  
24 that assistance.

25 Those are the main issues we wanted to talk

1 about. And if there's any questions, I'd be happy to  
2 answer them or try to answer them for you.

3 BOARD MEMBER MEDINA: Thank you.

4 Board Member Jones.

5 BOARD MEMBER JONES: Thank you, Chair Medina.

6 Were you by any chance at our meeting that we had  
7 in Santa Rosa?

8 MR. POZZI: No, I wasn't.

9 BOARD MEMBER JONES: Okay. At the time one of  
10 the members was asking if there were other ranches or  
11 farms that had used tires, and we were basically told that  
12 that information was tough to get or they didn't know or  
13 whatever. I think we knew about Valley and we knew about  
14 the other one at the time. But how many more ranches do  
15 you have in your conservation district that have placed  
16 tires in it for erosion control?

17 MR. POZZI: It's hard to say at this time. I  
18 can't pinpoint any numbers, and I wouldn't want to guess.  
19 And you know I think each landowner is going to have to  
20 make sure they step up to the plate and come forward to  
21 try to bring that fact forward. And at this point I don't  
22 have an answer for you on that.

23 BOARD MEMBER JONES: So you know one does; right?

24 MR. POZZI: Sorry.

25 BOARD MEMBER JONES: You know one does?



1 MR. POZZI: I know these two do that we have  
2 recognized here in this -- with this program.

3 BOARD MEMBER JONES: But you're not sure if any  
4 others do?

5 MR. POZZI: That's correct.

6 BOARD MEMBER JONES: Which puts us in a pretty  
7 difficult position because we're trying to come up with a  
8 decision on how to deal with a problem and at the same  
9 time protect the integrity of the Treasury of the state of  
10 California. And it requires a two-way street. So  
11 irregardless of, you know, what we're going to do here,  
12 we're going to have to make sure that people understand  
13 that -- well, we'll see what we come up with as a  
14 resolution. But it's not very comforting sometimes to  
15 wonder if there are more sites out there and not have  
16 anybody offer that information and then come up later and  
17 ask for help to clean it.

18 BOARD MEMBER MEDINA: Okay. Thank you.

19 Board Member Washington.

20 BOARD MEMBER WASHINGTON: And let me just  
21 emphasize again on what Mr. Jones just said, which I think  
22 is an important point he's making here. If there are more  
23 sites, this is certainly not the time to try to negotiate  
24 or try to use this as a ploy or whatever the case may be.  
25 We certainly need to know, because again, we're ready to

1 make a decision. We're prepared. And we're trying to get  
2 to a point where we're making a decision. We don't want  
3 to make a decision and we come back and there's seven  
4 other sites out there. Again everyone, all the ranches  
5 and the folks say, "Take this thing. Work on it on a  
6 case-by-case basis and try to come up with a conclusion."  
7 We need to see all of what we're dealing with. So if  
8 there are any that you know of or can get your hands on --  
9 tell your folks, "Hey, if there's one, we need to know to  
10 give to that Board because they are moving on this issue,"  
11 we will certainly -- and I ask all districts that know of  
12 any to let us know about them so we can know what we're  
13 dealing with.

14 It's unfair for us to sit up here and try to make  
15 a decision based on state statute, not just something  
16 arbitrarily we created. We have statute of law. We have  
17 to fix situations out there. If there's something out  
18 there and you can go back and find out for us, we  
19 certainly will appreciate it. I just want to emphasize  
20 that because that's an important point that Mr. Jones just  
21 made.

22 MR. POZZI: I recognize that, and we'll see what  
23 we can do in our district.

24 BOARD MEMBER WASHINGTON: Thank you.

25 MR. POZZI: Thank you very much.

1 BOARD MEMBER MEDINA: Thank you.

2 The next speaker is Paul Sheffer.

3 MR. SHEFFER: Mr. Chairman, members of the Board,  
4 my name is Paul Sheffer. I'm with the Sonoma County RCD,  
5 I used to work for the SCS and now the national resource  
6 conservation service. My job here is to clarify the  
7 relationship of NRCS and the RCD. Counsel did a very good  
8 job of the RCD.

9 The RCDs were formed in the 30s during the dust  
10 bowl days to aid the ranchers in erosion control and other  
11 projects. The idea was the local landowners get together,  
12 form a district. When the district was formed, which is  
13 special district, same as fire district under the state of  
14 California. This is also nationwide. Then the SCS  
15 would come in. That's the federal agency on the Board of  
16 Agriculture.

17 The SCS, their job was to provide technical a  
18 experience -- expertise for the RCD. So when the ranchers  
19 formed the RCD, SCS came in. There's no RCD. There's no  
20 SCS. This is important because there's some areas in the  
21 state where there is no SCS.

22 So the ranchers were there to help -- the Board  
23 was there to help ranchers with erosion control problems,  
24 problems with pollution. These are problems that were  
25 something the ranchers would not normally pay for

1 themselves and they're not production-oriented measures.  
2 In other words, they were not there to help the rancher  
3 increase their production or income. So the SCS and the  
4 government provided funding through federal service agency  
5 and then through the ranchers to help them do these  
6 erosion control or pollution control problems and  
7 alleviate these problems. In other words, I feel that the  
8 RCD, SCS combination was the first environmental agency in  
9 the country. This has been copied all over the world.

10 Lately, the RCD is taking a more active role and  
11 is getting grants and is hiring qualified professionals to  
12 aid in the work. So the SCS or NRCS federal agency is the  
13 agency which provides technical experience, and the RCD is  
14 one that decides what problems that they want the SCS to  
15 address.

16 Are there any questions?

17 BOARD MEMBER MEDINA: Board members, any  
18 questions?

19 Board Member Paparian.

20 BOARD MEMBER PAPARIAN: I think Ms. Swent  
21 suggested you might be able to answer some other questions  
22 I raised earlier about how this all really worked in terms  
23 of the landowner initially getting the advice.

24 MR. SHEFFER: What -- the landowner would come  
25 in. Say Mr. Silacci had a problem with erosion. They

1 would come to the RCD Board. The RCD Board would call in  
2 the SCS. And the SCS personnel would go out in the field  
3 and discuss the problem with the rancher.

4 Now we have no enforcement agency. Just through  
5 persuasion and trust that we work. They would discuss all  
6 of the various methods of solving the problem, as it was  
7 the landowners problem, not ours. They were the ones that  
8 made the decision on the most feasible and practical --  
9 best measures practice that they would want to use.  
10 Sometimes the solution would require engineering. And the  
11 SCS would provide the engineering with -- qualifying with  
12 SCS standards, which were nationwide and under their  
13 control. When, in fact, the SCS were the ones that  
14 started the best measures and practices idea.

15 BOARD MEMBER PAPARIAN: So the SCS provided some  
16 engineering help to these sites?

17 MR. SHEFFER: Engineering, yes.

18 BOARD MEMBER PAPARIAN: But we don't have any  
19 written information?

20 MR. SHEFFER: No. I don't have any written  
21 information. Most of the contacts were written up in  
22 reports in -- what they have farm plans. Every farm had a  
23 plan which was an aerial photo of the plan, with all the  
24 physical attributes of the plan on one side, and on the  
25 other side was the soil attributes of the ranch. And that

1 is what we call cooperators decision. We would write down  
2 what the cooperators decided.

3 BOARD MEMBER PAPARIAN: So if we had access to  
4 these plans at this point, some of them right now  
5 recommended --

6 MR. SHEFFER: Some of them might say that, yes.

7 BOARD MEMBER PAPARIAN: -- recommended put tires.

8 MR. SHEFFER: Right. I have gone through most of  
9 the files. I haven't come across any as of yet. There  
10 are quite a few files. The SCS, this office covered both  
11 Marin and Sonoma Counties, one district in Marin and three  
12 districts in Sonoma County.

13 BOARD MEMBER PAPARIAN: Again, once the landowner  
14 decided and wrote on their plan they wanted to use tires,  
15 what would they do? Who would they contact to get the  
16 tires? How did that relationship work?

17 MR. SHEFFER: It's up to the landowners to get  
18 their own contractors. The SCS would not -- landowner was  
19 required to get his own contractors and his own permits.  
20 The SCS or RCD were not involved in that process.

21 BOARD MEMBER PAPARIAN: You don't remember if  
22 there was anybody around kind of brokering this stuff?

23 MR. SHEFFER: Not to my knowledge, no.

24 BOARD MEMBER PAPARIAN: And then how recently --  
25 how do I ask this? When was the last tire put in one of

1 these sites as far as you know?

2 MR. SHEFFER: The last one as I remember were  
3 with -- I think mentioned with Ms. Gerbosi. And that was  
4 done -- I just happened to be driving by at the time. And  
5 Ms. Beebe at the time had leased the property to a  
6 gentleman to run the diary. And I gather he had, unknown  
7 to Ms. Beebe, brought the tire -- had someone bring the  
8 tires in. That was the last one I know of.

9 BOARD MEMBER PAPARIAN: About when was that?

10 MR. SHEFFER: In the 70s somewhere.

11 BOARD MEMBER PAPARIAN: 70s. Thanks.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
13 Mr. Sheffer.

14 Board Member Washington.

15 BOARD MEMBER WASHINGTON: One more question for  
16 you. I visited your site with you, and we went down the  
17 hill there. Remember we came down and went down the hill?

18 MR. SHEFFER: Correct.

19 BOARD MEMBER WASHINGTON: And I noticed that  
20 there was -- some tires had like 1999 written on them.  
21 Has that issue been resolved? Because I think one of your  
22 staffers or someone said that people were illegally coming  
23 in your property and were still dumping tires. Have you  
24 resolved that issue?

25 MR. SHEFFER: That would be Mr. Silacci and I

1 think he's the next speaker. He can address that much  
2 more than I can.

3 BOARD MEMBER WASHINGTON: All right. Thank you.

4 CHAIRPERSON MOULTON-PATTERSON: Okay. With that,  
5 Mr. Don Silacci.

6 BOARD MEMBER WASHINGTON: Yeah. You're the one  
7 that let me in the gate.

8 MR. SILACCI: As far as the question you just  
9 asked, Board members and staff -- Don Silacci. I've had  
10 people dump tires along the road. I've had people drive  
11 through my neighbor's property because the road drives all  
12 the way up in the back along my place and throw tires out  
13 there and roll them down the hill to those tire sites.  
14 Probably the reason why because of some of the press  
15 that's been in the local paper about our tire situation.  
16 And more than once have we found people dumping tires back  
17 there. And it was a '99 tire -- dated a '99 tire.  
18 Somebody had dumped that time. We haven't dumped any  
19 tires back in those holes since the mid-70s.

20 But I do want to commend the Board for the  
21 options and the Board and staff for the options they came  
22 up with in this report. Standing here and where we  
23 started 10, 12 years ago, the attitude has definitely made  
24 a big change. I feel very comfortable up here talking to  
25 you today because I feel there's a possibility that after



1 all these years -- to get this problem resolved. I'm  
2 speaking for myself as a landowner.

3 I'm willing to do just about anything to get this  
4 thing resolved. We've had to make a lot of decisions over  
5 the past years of where our business is going to go and  
6 where it's going to go in the future. And there's one  
7 thing that's holding us back, and that's these tires. So  
8 I'm hoping by the end of the day we'll have some direction  
9 as to where this project is going to start and when it's  
10 going to get finished. And through the process of  
11 negotiations, as I read in this paper here in front of me,  
12 that there is a really good possibility of getting  
13 something done within the next year or two, I hope. Thank  
14 you.

15 BOARD MEMBER MEDINA: Thank you.

16 Board members, any further questions?

17 Board Member Peace.

18 BOARD MEMBER PEACE: I had a question. In terms  
19 of erosion control, again, regardless of who ultimately  
20 pays for it, there seems to be a difference of opinion  
21 between some people here between Leandra and what Joe had  
22 to say. So I'd just like to know if Joe Crea would like  
23 to comment on what Leandra Swent had to say in regards to  
24 erosion control.

25 MR. CREA: If I'm correct, Leandra stated that

1 there would be more money or more cost involved with  
2 erosion control at the Beebe site because what I touched  
3 upon in my brief conceptual demonstration on certain types  
4 of erosion control and sediment control practices. I'd  
5 like to go back if we can to the one erosion control photo  
6 that depicts the rip rap, otherwise -- it's a sub-angular  
7 blocky type rock that is -- in the situation we're talking  
8 about, would be used for stream bank or stream restoration  
9 purposes to prevent further scouring and erosion,  
10 especially around channel bends. Let me get to that.

11           There you go. At the bottom -- if you look at  
12 the bottom right-hand corner at the bottom of that  
13 corrugated metal pipe, lying down along that area within  
14 that swale area, that is rip rap. And rip rap is -- first  
15 of, all you need to get a design. You need to know the  
16 hydrology. And once you find out the hydrology and the  
17 hydraulics of that channel, you then know what size of  
18 rock to select and how to install the rock. It's not just  
19 dumped in there. There is excavation of -- minimal  
20 excavation involved for the placement of rock, and it  
21 needs to be flush, at grade, as not to act as an  
22 obstruction in the water of course, but as a velocity  
23 device to slow down the velocity and reduce the erosion.  
24 It's a viable method. It's used worldwide, and it's  
25 accepted.

1           And in this case Leandra mentioned that it may  
2 not be an accepted practice. It may -- what I'm thinking,  
3 it may just be for aesthetics purposes, not for an erosion  
4 control purpose. If it is an aesthetics purpose issue,  
5 you can use what's known as bioengineering, which is  
6 promoted heavily by the NRCS as well as the Army Corps of  
7 Engineer, and what that would entail is still placing the  
8 rip rap, but using live stakes, wood stakes that are  
9 native to riparian or areas of a stream and plant them in  
10 between the void spaces of a rock. And eventually, as  
11 long as -- you know, provided on the design and the  
12 maintenance of it, you end up getting riparian vegetation  
13 that masks the rip rap from an aesthetics point of view.

14           But I want to state this is an accepted practice.  
15 And in some of these situations, I strongly recommend that  
16 practice for an erosion control.

17           By the way, this picture you're looking at is  
18 taken in Sonoma county.

19           BOARD MEMBER PEACE: Thank you.

20           BOARD MEMBER MEDINA: Any further questions,  
21 Board Member Peace?

22           BOARD MEMBER PEACE: No.

23           BOARD MEMBER MEDINA: If not, what I want to do  
24 at this point is I want to poll the Board in regard to  
25 their preferred options. And we'll eliminate some

1 options. And then we will -- in regard to the options  
2 that have the strongest support, we'll go into closed  
3 session to discuss any legal issues that might revolve  
4 around those two options. We'll come back and open it up  
5 for a motion on behalf of the Board members.

6 So if we start with you, Board Member Jones, if  
7 you could tell us which is your preferred option and the  
8 reasons why.

9 BOARD MEMBER JONES: I appreciate the work that  
10 staff's done on this. We've had a lot of hearings over  
11 the years trying to figure this thing out, a lot of visits  
12 to Sonoma county.

13 Mine would be a blend. I think there's a couple  
14 of issues that are paramount to me. I think Option 2 and  
15 a little bit of Option 3. I'm not sure if I like the idea  
16 of the grant for the erosion control, but I do think that  
17 we need to be thinking seriously about doing that erosion  
18 control at the time of removal of the tires.

19 But my support is going to be predicated on the  
20 fact that the Board is involved with the local agencies  
21 and with the ultimate plan. These negotiations, as I see  
22 them -- and I'm not going to have anything to do with  
23 them -- but as I see them, is not merely that the Board  
24 has said they're going to use tire money to clean up this  
25 mess. It is -- there is going to have to be give and

1 take. I talked to the people from -- I don't want to say  
2 it wrong. Is it infinity or whatever the name of the race  
3 track is. Sears Point, when I was out there one day,  
4 they've got a biologist that works on the red-legged frog  
5 and all the rest of these things. And I made a comment  
6 that would be something that obviously would need to be  
7 provided, you know, as part of cost recovery and part of  
8 the contribution that they could potentially provide for  
9 all the sites since they've got one on staff.

10 It's that kind of thinking -- when Bob Fujii and  
11 I were at Flochinni's site, Bob and King -- our guy, our  
12 man King -- by the way was the guy on that excavator who  
13 put out the C&D pile down in Tracy. But Bob and King and  
14 I were talking with the landowners about the possibility  
15 of not just pulling out all the tires and doing more  
16 erosion control. There's a spring up there that's  
17 creating water that could be diverted through a pipe.  
18 There is no red-legged frog. There is no other problems.  
19 And rather than remediate, push the hill down over the  
20 pipe. And you create a slope that's not going to erode.

21 That's what I see as negotiation. It's the  
22 capability to be able to sit down and figure out a  
23 solution that is not out of a can. Unless we have that  
24 commitment, I'd have a hard, hard time with this. Because  
25 what is basically being asked here is for the tire fund to

1 fund this remediation. And there is no way that I could  
2 support it without our staff being involved every step of  
3 the way because they're the only ones that are going to  
4 try to protect our treasury. They have a vested interest  
5 in doing that. You have a vested interest to make sure  
6 these regulators don't drive us nuts. I do think it's  
7 funny in the presentation, though, as a business guy that  
8 has permitted lots and lots of landfills and transfer  
9 stations that one of our biggest concerns is the cost to  
10 do business in California with some of the CEQA issues.  
11 It's sort of like turning itself on itself.

12 BOARD MEMBER MEDINA: At this point Board Member  
13 Jones, Option 2 would be your first choice?

14 BOARD MEMBER JONES: Two and part of 4 because I  
15 think we have to do the erosion control. And then we can  
16 negotiate for what their participation is going to be.

17 BOARD MEMBER MEDINA: Board Member Peace.

18 BOARD MEMBER PEACE: I, too, also like Option 2,  
19 where we'd issue the cleanup and abatement orders to all  
20 sites, and that we would negotiate with the landowners  
21 regarding the managed remediation of the tire removal. We  
22 would negotiate with each landowner differently because  
23 every site is different, and that the tire removal and the  
24 erosion control would need to be done concurrently. But  
25 the landowner would be responsible for getting all the

1 permits, and they would be the ones responsible for the  
2 erosion controls.

3 BOARD MEMBER MEDINA: Thank you.

4 Board Member Washington.

5 BOARD MEMBER WASHINGTON: Mr. Chair, Option 2.

6 And again, I want to emphasize what Mr. Jones and  
7 Ms. Peace just said. In Option 3 I'm a little concerned  
8 about the grant. I'm not so sure if I'm clear as to what  
9 this grant would be used for and where it's coming from.  
10 So with that, Option 2 and part of Option 3.

11 Let me say, Mr. Chair, I want to tell each and  
12 every one of the ranchers who came up, thank you so very  
13 much. When I first came to this Board and I heard this  
14 issue, it wasn't as clear as it is today that you want to  
15 help resolve this matter. And to hear each and every one  
16 of you come up and say that you want the help out and  
17 you're willing to do whatever it takes to get it done,  
18 it's certainly been a relief to me. Because I was under  
19 the impression we were in a battle for our life trying to  
20 remove tires off your ranch. And to hear you say, "We  
21 want to get this resolved and we want to do it and be  
22 helpful in doing it," has really helped this situation  
23 out. And I hope we can bring some conclusion for you guys  
24 so you can move on, non only with your ranches but your  
25 lives so you can put this thing behind you.

1 I'm with Option 2 and part of Option 3.

2 BOARD MEMBER MEDINA: Thank you, Board Member  
3 Washington.

4 I, myself, favor Option 2. I think we need to  
5 clean up the tires as soon as possible, but yet the state  
6 cannot bear the full cost of the clean up. So I'm going  
7 with Option 2. And with that, I want to let Board Member  
8 Paparian give us his option, and also if you'd move  
9 forward with the motion.

10 BOARD MEMBER PAPARIAN: Thank you, Mr. Chairman.

11 I'm comfortable with the staff resolution --  
12 staff proposed resolution on this, which is, as I read it,  
13 incorporates Option 2. The question of erosion control  
14 that's been brought up, I think, is a very important one.

15 But where I stand on that is that as we move  
16 forward on the cleanup of these sites, I think we have to  
17 assure that the erosion control is going to happen, that  
18 we're not going to clean up the sites and that there's not  
19 going to be some erosion control coming in behind it. But  
20 I think that the responsibility for that erosion control  
21 should be with the landowner, that the landowner should  
22 take care of making sure that the erosion control is done  
23 and should have the full responsibility for whatever  
24 happens in the future with that erosion control. If it  
25 works, fine. If it fails, it's on their shoulders and not



1 coming back to our deep pocket for fixing it at some point  
2 in the future.

3 So as I read Option 2, it accomplishes that and  
4 it allows us some flexibility in determining the level of  
5 cost recovery, which is an issue that we're going to have  
6 to get to as there's negotiation over how to handle each  
7 of these sites.

8 BOARD MEMBER MEDINA: Can you put that in the  
9 form of a motion, Board Member Paparian?

10 BOARD MEMBER PAPARIAN: I move resolution  
11 2003-383.

12 BOARD MEMBER MEDINA: Do we have a second?

13 BOARD MEMBER WASHINGTON: Second.

14 STAFF COUNSEL BLOCK: Chairman Medina.

15 BOARD MEMBER MEDINA: Yeah.

16 STAFF COUNSEL BLOCK: Before you vote on that, an  
17 issue was brought up earlier today that the name of North  
18 American Universal Waste Tire Site is actually Universal  
19 Waste Tire Site. So you might want to revise that in the  
20 resolution.

21 BOARD MEMBER PAPARIAN: So with that -- I accept  
22 that change. Are you -- knock out the words "North  
23 American."

24 BOARD MEMBER PEACE: Can we ask legal a question  
25 real quick?

1           When it comes to cleaning up the tire sites and  
2 the erosion control, I notice the erosion control is --  
3 the cost is a lot less if we do it concurrently, that they  
4 do the erosion control as they're taking the tires out.  
5 The cost to landowners would be quite a bit less. Can we  
6 still draw up agreements where we would be, you know,  
7 responsible for some of the tire removal, but that the  
8 landowner would still be responsible for the erosion  
9 control, even though they're using the same contractor?

10           STAFF COUNSEL LEVINE: I think that could be one  
11 of the aspects that would be subject to the negotiations.  
12 I think the cost estimates we put in for the conventional  
13 erosion control was predicated on, for instance, Option 1,  
14 Option 5. We're just doing everything. And it's our  
15 contractors, our equipment, our stuff out there. You  
16 know, just various options come to mind, I mean, to the  
17 extent that something could be negotiated up front where  
18 the proper owners utilize and pay for the equipment and  
19 materials, et cetera, for -- basically contract with our  
20 contractors for the erosion control aspect. I'm not sure  
21 if that would work. But there's various ways potentially  
22 they could utilize the economies of scale of our stuff out  
23 there.

24           There's no answer we're going to be able to get  
25 to that today. But based on your suggestion we could

1 certainly explore that.

2 BOARD MEMBER PAPARIAN: The key thing I brought  
3 up is that when we move forward, that will all be done  
4 before we move forward with the cleanup on a site. We'll  
5 have negotiated out that the erosion control will take  
6 place and it won't be the Waste Board's responsibility.

7 STAFF COUNSEL LEVINE: Absolutely. That would be  
8 negotiated out. And also just to emphasize again with the  
9 other regulatory agencies, I don't think we're going to be  
10 removing any tires at all. These things are negotiated  
11 out, and all the other agencies have given the requisite  
12 permits and approval. So these should all be totally  
13 resolved before the project actually begins.

14 BOARD MEMBER PEACE: Thank you.

15 BOARD MEMBER JONES: MR. Chairman.

16 BOARD MEMBER MEDINA: Board Member Jones.

17 BOARD MEMBER JONES: To the maker of the motion,  
18 if this says -- I mean, this is talking about negotiating  
19 further remediation of tires and cost recovery. It  
20 doesn't really say anything -- I mean, obviously we're  
21 going to have to deal with all of the local agencies or  
22 federal and state agencies to get approvals before  
23 anything would be done.

24 And my question is, is it the intent that if the  
25 Board has nothing to do with erosion control, are we

1 basically saying we're going to remove the tires and leave  
2 the erosion control to the landowners? Or Are we saying  
3 erosion control can be part of it, but we're not going to  
4 take any liability for it? I'm not clear.

5 BOARD MEMBER PAPARIAN: I think if you look at  
6 Option 2, it says that erosion control will take place,  
7 but it won't be the Board's responsibility to make sure  
8 that it happens. It will be the landowners'  
9 responsibility. And the intention, again, is that we  
10 don't start to cleanup without knowing that the landowner  
11 has accepted that responsibility and is going to move  
12 forward with assuring that that erosion control takes  
13 place. So cleanup won't take place without erosion  
14 control, but we won't be responsible for that erosion  
15 control. It will be the landowner's responsibility.

16 BOARD MEMBER JONES: And I understood that. I  
17 guess my question is then, the tires were put in place  
18 originally because other remediation or erosion control  
19 issues failed. Are we comfortable that -- I mean, the  
20 landowners had offered at one point during testimony that  
21 they had some suggestions on our existing -- on this  
22 resolution, but they never got a chance to testify as to  
23 what those pieces were. I don't know if there's a need to  
24 hear what those little tweaks were before we vote on them.  
25 But, you know, it's critical to me that erosion control,

1 which is what created this thing to begin with, be dealt  
2 with. And for those landowners that may have not the  
3 ability to do that, I don't know how we ever succeed in  
4 ending up with any tire removal.

5 BOARD MEMBER PAPARIAN: If one of the landowners  
6 is unable to perform under this resolution which calls for  
7 them to take responsibility for erosion control, I think  
8 the staff would then bring it back to us. We're talking  
9 about five landowners here. I think we've already had  
10 some indication they're willing to work with us and work  
11 with us on the erosion control. But if that doesn't  
12 happen, if the negotiation fails, I think the staff would  
13 then bring it back to us for some further clarification,  
14 if necessary.

15 BOARD MEMBER JONES: Okay. And then -- so this  
16 resolution just deals with these five. It doesn't deal  
17 with Valley and it doesn't deal -- the one that buried it,  
18 I mean, clearly that's a landfill. That guy's got bigger  
19 problems than this issue. But the Valley one, do we deal  
20 with that later?

21 DEPUTY DIRECTOR LEE: That's -- we would like to  
22 get some clarification from the Board with regards to the  
23 other groups, the Group 2, the Ahlgrim site, and the Group  
24 3 sites, which have a lot of similarity to the Group 1.  
25 So, again, if that could be made part of the motion, that

1 would clarify staff's direction for those groups.

2 STAFF COUNSEL LEVINE: Another aspect is we may  
3 get some insight into how this whole process is working  
4 through negotiations in the coming weeks. And that  
5 insight may be helpful in getting further direction on the  
6 Group 3 sites as well. So there there's various options.

7 BOARD MEMBER MEDINA: We have resolution.  
8 Motion's been made and seconded. And we'll call the roll  
9 on it. We're going to go into closed session, and then  
10 we're going to come back. We're going to keep the roll  
11 open on this.

12 So call the roll on the motion.

13 SECRETARY WADDELL: Jones?

14 BOARD MEMBER JONES: Aye.

15 SECRETARY WADDELL: Medina?

16 BOARD MEMBER MEDINA: Aye.

17 SECRETARY WADDELL: Paparian?

18 BOARD MEMBER PAPARIAN: Aye.

19 SECRETARY WADDELL: Peace?

20 BOARD MEMBER PEACE: Aye.

21 SECRETARY WADDELL: Washington?

22 BOARD MEMBER WASHINGTON: Aye.

23 BOARD MEMBER MEDINA: Resolution 2003-383,  
24 consideration of remediation options for the Sonoma County  
25 waste tire sites has been moved and seconded. It's

1 carried by a 5-0 vote. And I'm keeping the roll open  
2 until such time as the Chair can come back and register  
3 her vote, which will be right after our immediate closed  
4 session. So we're going to take a five-minute break, go  
5 into closed session, and then we will return at  
6 approximately 4:15. We expect the Chair back at that  
7 time. We're done, except the roll will remain open.

8 (Thereupon the Board adjourned into closed  
9 session.)

10 CHAIRPERSON MOULTON-PATTERSON: The Board has  
11 returned from closed session. And we have no  
12 announcements from closed session. But I understand that  
13 there was -- that you kept the vote open on item number 3  
14 for me to vote on the Sonoma tires. I'd like to record  
15 that vote as yes. There was a tweaking or something. It  
16 was Option 2 that was revised, Option 2, as I understand  
17 it.

18 BOARD MEMBER PAPARIAN: Option 2 with  
19 explanation.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you. This  
21 meeting is adjourned.

22 (Thereupon the California Integrated Waste  
23 Managment Board, Board of Administration  
24 adjourned at 5:05 p.m.)  
25

1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing hearing was reported in shorthand by me,  
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing nor in any  
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 23rd day of July, 2003.

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22 TIFFANY C. KRAFT, CSR, RPR  
23 Certified Shorthand Reporter  
24 License No. 12277

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